

DETERMINING ELIGIBILITY

How Eligibility is Determined for the Texas Migrant Education Program (MEP) in MEP-Funded School Districts

In Texas, migrant children and youth are identified and recruited for the Migrant Education Program (MEP) through an interview process conducted by a local school district recruiter. School districts that choose to operate a local migrant education program are required to hire recruiters who will conduct identification and recruitment within the boundaries of the school district. Because of the highly mobile nature of migratory work in agriculture, it is required that identification and recruitment be conducted beyond the campus and throughout the school district community.

Local recruiters conduct face-to-face interviews with families in order to determine eligibility for the MEP. A Certificate of Eligibility (COE) form is completed during each interview. The COE is an official, legal document that should contain all of the information that the school district will need in order to determine eligibility. Once a family is determined to have done qualifying work, and a child is determined to be eligible for the MEP, the COE must be kept on file by the school district for future reference and auditing purposes.

Importance of Eligibility Determinations

Determining child eligibility correctly is one of the most important functions of the MEP. By enrolling eligible students in the MEP, recruiters help migrant students obtain the educational assistance they need. As a result, these students have more resources available to help them adjust to a new school and keep up academically, thus lessening the negative educational consequences associated with migration. In addition, the number of eligible students identified by the MEP determines the level of funding that states receive to provide educational assistance to this population. Recruiters have the opportunity to connect migrant children to the greatest number of educational services by making proper eligibility determinations.

There are specific conditions that a child must meet in order to be considered a “migratory child” according to the No Child Left Behind Act of 2001. Simply moving and then working in agricultural or fishing activities, or being in the care of a parent or guardian who does so, does not necessarily mean that a child is eligible for the MEP. In order to determine eligibility, a recruiter must determine if the worker is performing work that the MEP deems to be “qualifying work” *and* if the worker had the correct circumstances surrounding his/her move to acquire the work. This requires that the recruiters perform sometimes simple, sometimes complex investigations about the family’s intention to perform qualifying work

prior to the move and about their intentions to continue migrating for agricultural/fishing purposes when that work is finished. With such challenges, it is essential that all recruiters have a thorough understanding of what terms define child eligibility and that they have the ability to apply those terms to the circumstances of parents'/guardians' lives.

Notice of Final Regulations (Effective August 28, 2008)

On Tuesday, July 29, 2008, the Office of Elementary and Secondary Education, US Department of Education (USDE) published final regulations governing the Title I, Part C Migrant Education Program. As part of these new regulations, USDE established requirements to strengthen the processes used by the State Education Agencies (SEAs) to determine and document the eligibility of migratory children under the MEP.

New sections were added to the regulations regarding Identification and Recruitment (ID&R) procedures in order to establish minimum requirements a State must meet in:

1. Conducting retrospective re-interviewing, where needed, to examine and validate the accuracy of its statewide eligibility determinations under the MEP, and annual prospective re-interviewing in order to ensure ongoing quality control in all future eligibility determinations;
2. Documenting its eligibility determinations under the MEP, and clarify that the State is responsible for accurate determinations of program eligibility; and
3. Developing a system of quality controls that must be implemented in order to promote accurate migrant child eligibility determinations.

ID&R Responsibilities for Project and Non-Project Districts

Project Districts (Independent Projects and SSA-Member Districts):

- Are public school districts that **receive MEP funding** to operate a migrant program.
- **Must conduct ID&R** for the MEP independently or in coordination with the regional ESC through a Shared Services Arrangement (SSA).

Non-Project Districts:

- Are public school districts that do not receive MEP funding.
- **Must work with MEP-funded staff of the ESC who have the responsibility** for ID&R, including migrant student enrollments, encoding of PEIMS numbers, eligibility review, residency verification, migrant student withdrawals, and if available, state academic assessment results. These requirements are outlined in the ESC ESEA Title I, Part C Migrant Basic Services Grant Application.
- **Must maintain documentation on file** indicating that active identification and recruitment is taking place at the district.

Determining Eligibility

Recruiters are responsible for determining whether a child qualifies for the MEP. These “determinations” follow the same line of questioning that any other investigator or reporter uses. If a migratory child is described by each of the questions (**WHERE, WHO, WHEN, WHY** and **WHAT**) according to the definitions of MEP eligibility, then the recruiter’s questioning will result in eligibility documentation. The questions that establish the boundaries of eligibility are as follows:

WHERE

- Did the family move due to economic necessity from one school district to another?

WHO

- Is the child under the age of 22?
- Is the child lacking a U.S.-issued high school diploma or General Educational Development (GED) certificate?
- Is the child, or does the child have a parent, guardian or a spouse who is, a migratory agricultural worker or migratory fisher?

WHEN

- Did the child move on his/her own or move to accompany, or join a parent, spouse or guardian, within the preceding 36 months?

WHY

- Was one of the purposes of the move to seek or obtain qualifying work?

WHAT

- What is the qualifying seasonal employment or temporary employment in agriculture or fishing work?

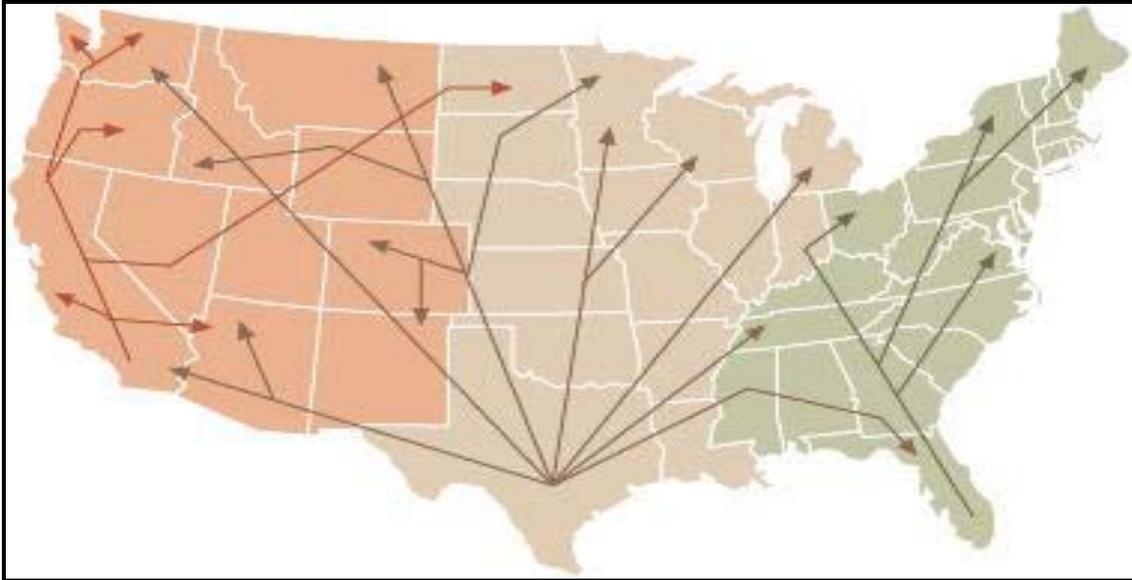
If the answer to all of these questions is “Yes,” then a qualifying move has been made and the child(ren) is (are) eligible for recruitment into the MEP. (See MEP Eligibility Flow Chart on page 1.35 and Eligibility Screening Tool on page 1.36.)

Sometimes recruiters will not be able to make eligibility determinations on their own. “Extenuating circumstances” may surround the move that make it impossible for the recruiter to make a sound and reasonable eligibility determination on his/her own (e.g., parent is laid off, family member has a serious medical condition). In such cases, the recruiter must forward the COE and detailed supplemental documentation to the regional ESC migrant contact who will then forward all documentation to the State MEP for an eligibility determination. (See page 1.33.)

Note: It is migrant children, *not their parents*, who are enrolled in the MEP. MEP services are designed for children whose education/schooling has been *disrupted* due to their migratory lifestyle.

It is the migrant child who will benefit from the MEP, and it is the child who must make a qualifying move. Children qualify because either they are performing qualifying work after moving, or because they have moved with a parent or guardian who is engaged in qualifying work.

Where



The first element of eligibility refers to **where** the move took place.

The terms MOVE or MOVED refer to a change from one residence to another residence that occurs due to economic necessity. To qualify for the MEP, this move must be from one school district to another. Both the child and the parent must move across school district lines and change residences in the process. If a child and a parent move from different previous residences, the child's prior residence should be the one recorded on the COE in Section C. and the parent's prior residence should be recorded in the Comments section of the COE Supplemental Documentation Form (SDF).

Because of the size of the State of Texas, its geographic location and the wide variety of agriculture and agriculturally-related work in the state, school districts in Texas can be either sending and/or receiving districts.

Some recruiters may identify and recruit families who move into their school district to obtain qualifying seasonal or temporary agricultural work (receiving districts) while other recruiters may identify and recruit families who return back home after performing qualifying seasonal or temporary agricultural work in another part of the state or outside of the state (sending districts).

Note: Moves **TO** Mexico or any other country will never qualify a family for the MEP since the MEP is meant to benefit families who perform qualifying work in the U.S.

However, moving to the U.S. from Mexico is just like moving from one school district to another in the U.S. The reason is that there is a historical pattern of migration from Mexico to the U.S. to perform temporary or seasonal work in agriculture. Families regularly travel between the countries depending on the growing season and available work. If a family, coming from Mexico to any U.S. state for the first time or any other time, meets all of the eligibility criteria, the children qualify for the program. No comment is necessary to support the eligibility determination unless it is a situation that requires comments.

Short Duration Moves (7 days or less)

A SHORT DURATION MOVE is a move of seven days or less across school district boundaries.

Note: A single one-day move is a non-qualifying move.

The recruiter is required to document comments to qualify short duration moves because these moves appear to have occurred in too short a length of time to establish whether or not a move has occurred. (For example, a family leaves on Friday afternoon after school and returns Sunday evening, or the work is completed before the end of a growing season or the reasonable amount of time to complete the specified task is not demonstrated).

In cases when a family does migratory work on multiple weekends, the recruiter should document only the last weekend move in Section C. of the COE. 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,” it is recommended that the recruiter document all other previous weekend moves on the Comments section of the COE SDF.

For qualifying moves of short duration of 7 days or less, the following information obtained through parent interview **MUST** be included as comments on the COE Supplemental Documentation Form:

1. Why the length of stay was short; and
2. Where the family resided on a temporary basis (e.g., with relatives, in housing provided by employer, etc.).

Short Distance Moves (100 miles or less)

A SHORT DISTANCE MOVE is a move of 100 miles or less (one-way), across school district boundaries, including moves to the U.S. from Mexico.

For qualifying moves of short distance (100 miles or less one-way) from the worker’s homebase the recruiter is required to document comments since one could question whether a migration has actually occurred. The recruiter **MUST** determine that the move is to a temporary residence to engage in seasonal or

temporary agricultural work. The following information obtained through parent interview **MUST** be included in the Comments section on the COE Supplemental Documentation Form:

1. The distance from the homebase to the temporary residence; and
2. Where the family resided on a temporary basis (e.g., with relatives, in housing provided by employer, etc.).

A move back to the homebase cannot be a short distance move.

Note: For itinerant families, the required comments for a short distance move may not always pertain due to the family not having a homebase.

Reminder: Commuting on a daily basis from one's homebase is considered "day work" and never qualifies as a migration for the MEP. Note, however, that situations in which a worker has clearly made a migration to a new temporary residence and must travel everyday from the labor camp in one town to the field in a neighboring town may be qualifying moves, since, in such cases, the labor camp is not the worker's homebase.

Qualifying Moves to Homebase

The HOMEBASE is the city where the family considers "home." Most commonly, it is where the child plans to graduate from high school. If the family is itinerant (does not have a homebase) then the homebase would be the public school district associated with the last known address. For itinerant families, document on Section A. Family Data, Number 4 of the COE, the name of the last known school district along with the word "itinerant" next to it. For example, the recruiter would write, "District C. (itinerant)."

Note: A charter or private school cannot be a homebase district, but Mexico can be.

For temporary employment:

- The worker must have returned for qualifying work.
- The worker should not have returned home to resume permanent employment.

For seasonal employment:

- The qualifying work obtained by the worker was in season soon after the worker returned home (within 30 days).

For qualifying moves to homebase, the following information obtained through parent interview **MUST** be included as comments on the COE Supplemental Documentation Form:

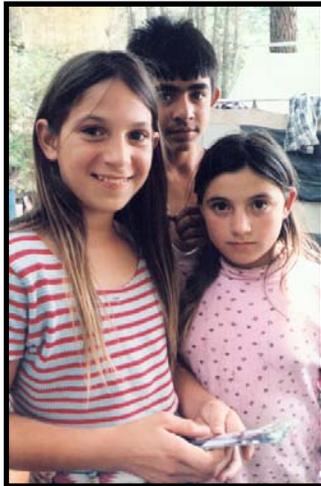
If temporary, document that the worker did not return home to resume permanent employment by supplying (1) either the worker's or employer's statement concerning the timeframe for which the worker was hired and (2) statement that the worker has not returned to previous employer.

If seasonal, the timeframe in which that specific qualifying work is available in that area.

SUBSEQUENT NON-QUALIFYING MOVES

Moves across school district boundaries that are for the sole purpose of finding a new residence, taking a vacation or for personal reasons are considered to be subsequent non-qualifying moves and do NOT qualify the child for the MEP.

Who



The second element of the five basic eligibility criteria relates to **who** made the qualifying move and, thus, relate to the following terms, as defined by the MEP.

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.

SELF ELIGIBLE YOUTH refers to a youth who is:

- a qualifying worker;
- under the age of 22;
- traveling on his/her own or with groups of workers/crew leader;
- under the control of a parent or guardian during the regular school year; and
- not solely responsible for his/her own welfare.

EMANCIPATED YOUTH refers to a youth who is:

- a qualifying worker;
- under the age of 22;
- traveling on his/her own;
- no longer under the control of a parent or guardian; and
- solely responsible for his/her own welfare.

PARENT refers to:

- a birth parent;
- a step-parent; *or*
- a parent through adoption.

GUARDIAN refers to a person who:

- has been appointed to be the legal guardian of a child through formal proceedings in accordance with law; *or*
- stands in the place of a parent to a child whether by accepting responsibility for the child's welfare or by a court order.

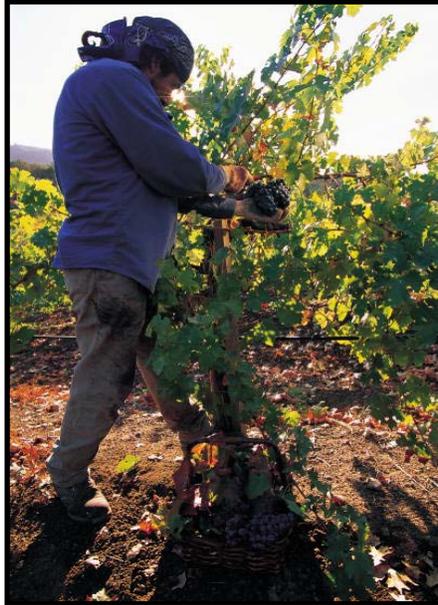
MIGRATORY AGRICULTURAL WORKER means a person who, in the preceding 36 months, has moved from one school district to another, or from one administrative area to another within a State that is comprised of a single school district, in order to obtain temporary employment or seasonal employment in agricultural work, including dairy work.

MIGRATORY FISHER means a person who, in the preceding 36 months, has moved, [as defined in statute], 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 statute], a distance of 20 miles or more to a temporary residence in order to obtain temporary employment or seasonal employment in fishing work.

Family Member(s) Who Migrate

Family members who migrate could include the father, mother or guardian or it could be that the migrant child or child's spouse was the migratory worker. Through the interview process, the recruiter determines who in the family actually made the qualifying move. All eligible children under the age of 22 who are lacking a U.S.-issued high school diploma or GED certificate and meet the criteria must be recorded on the COE.

When



The third element of the basic eligibility criteria relates to **when** the move took place. The dates associated with a move are critically important in that, once they are entered on a Certificate of Eligibility (COE), each date becomes data that affects a child's eligibility in an important way.

The **RESIDENCY DATE** refers to the date of the student's arrival in the school district:

- The residency date must be entered on the COE.
- Residency is not an element of migratory eligibility.

The **QUALIFYING ARRIVAL DATE (QAD)** refers to the date on which the qualifying move was completed.

- This QAD must be entered on the COE.
- The QAD is the date on which the child's eligibility for the MEP begins.
- The child is considered migratory for **36 months** (3 years) from the most recent QAD.

For more examples on determining the QAD, see the following chart.

Type of Qualifying Move	Qualifying Arrival Date (QAD) – Eligibility Begins
The child...	The QAD is...
...moved <u>with</u> the worker.	...the date the <u>child and worker both arrive</u> in the district where the worker will look for qualifying work.
...moved <u>before</u> the worker moved.	...the date the <u>worker arrives</u> in the district to join the child to look for qualifying work.
...moved to join the worker <u>after</u> the worker moves.	...the date the <u>child arrives</u> to join the worker.

Multiple Moves

In the case of multiple moves, only the last qualifying arrival date (QAD), along with the last qualifying activity **MUST** be documented on the COE. For example, a family may leave Texas for Minnesota to work in the sugar beets. Then, when that work is done, the family may head to Ohio to work in the cucumber fields before returning to South Texas. The recruiter will record on the COE the last qualifying move from Minnesota to Ohio and the last qualifying activity of picking cucumbers.

Recruiting Families More than One Year after the QAD

If a recruiter encounters a family whose last qualifying move was more than a year before the interview, the recruiter must consider the following when making an eligibility determination:

- A child retains MEP eligibility and is considered migrant for three years (36 months) from the last qualifying move or until:
 - The student or youth makes another qualifying move; or
 - The youth graduates from a U.S. high school or receives a General Educational Development (GED) certificate;
 - The youth turns 22.
- If a family has any eligibility remaining from the last qualifying move, the recruiter always must identify and recruit children who have eligibility remaining from the last qualifying move.
- If the family is “missed” in the district, the recruiter should complete a COE including a comment on the COE Supplemental Documentation Form explaining that the family has been identified in the district for the first time. If a family’s qualifying move was to the current address and was more than 12 months prior to the interview, the recruiter must be sure to probe for sufficient information to examine the seasonal or temporary nature of the work, as work extending beyond 12 months is more likely to be permanent.

To Join Move

TO JOIN refers to:

- A move by the child(ren) prior to or after the qualifying worker's move date.
- The "to join" date is when the child(ren) and qualifying worker begin residing in the same location after a qualifying move is made.
- For a "to join" move to occur, the child and the qualifying worker must join one another within 12 months.

For a "to join" move, the recruiter must document:

- the different arrival dates of the worker and child on the COE, Section C. (2) bi; and
- the reason for the child's later move or the worker's later move on the COE Supplemental Documentation Form.

The following are some examples of circumstances that are **not** considered "to join" moves:

- A child initially moves with the family, but then returns to the homebase to attend school while the rest of the family continues doing qualifying work;
- Two family members, ages 15 and 17, return home for a funeral and then travel back to the worksite to continue with the qualifying work.

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Why



The fourth element of the basic eligibility criteria relates to **why** a worker moved.

To qualify for the MEP, at least one of the reasons for the worker's move must be due to economic necessity **IN ORDER TO OBTAIN:**

- a. **Qualifying work, and obtained qualifying work;** OR
- b. **Any work, and obtained qualifying work soon after the move;** OR
- c. **Qualifying work specifically, but did not obtain the work.** If the worker did not obtain the work:
 - i. The worker has 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.

Note: SOON AFTER THE MOVE is defined as within 30 days after the worker's arrival.

In the course of the interview, if the recruiter discovers that the worker has not actually begun doing the qualifying activity, but the worker supplies sufficient facts regarding the employment (e.g., name of employer), the recruiter should indicate on the COE Supplemental Documentation Form: 1) that work has not yet begun, 2) schedule a return visit with the family within two weeks to confirm that the worker is engaged in the qualifying work and 3) document the visit and status on the COE Supplemental Documentation Form.

Moves In Order to Obtain Any Work

If a worker states that a reason for the move was to seek any type of work, i.e., the worker moved with no specific intent to find work in a particular job, the worker can be considered to have moved **in order to obtain** qualifying work only if the worker actually obtained qualifying work soon after the move.

The USDE believes that it is common knowledge that many migrant workers would accept a permanent job if they could find one and state the same in general terms when interviewed to determine their children's eligibility for the MEP. Often, however, these same workers are unable, after a move, to obtain any employment other than temporary or seasonal employment in agricultural or fishing work soon after they move can be an indication of their intent in making a move.

If a worker expresses only a generalized intent to have moved "for work" or "to obtain work," or would "take any job," or without any specificity "hope to find a permanent job," the worker has, in effect, expressed that one of the purposes of the move is to obtain temporary or seasonal employment in agricultural or fishing work.

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. Therefore, recruiters should be attentive to these situations whereby the worker expresses specific intent to obtain only non-qualifying work.

Work Sought But Not Obtained

To support an eligibility determination based on qualifying work sought, but not obtained, the recruiter must write in the Comments section on the COE Supplemental Documentation Form, *“The worker stated that one purpose of the move was to obtain qualifying work”*

AND document one of the following or both:

- i. The worker’s prior history of moves to obtain qualifying work.** If the worker’s history of migration has not been recorded on NGS, the recruiter must supply:
 - qualifying arrival dates (QADs);
 - types of employment previously obtained; and
 - from/to information for qualifying moves.

If the worker has a history of migration on NGS, print out the “View Enrollment History Information” screen and file it with the COE **or if the worker has a history of migration on MSIX, print out the main Enrollments screen that shows the list of enrollments and file it with the COE. For both NGS and MSIX, when there is more than one child on a COE, only one copy of the enrollment history screen is sufficient for filing purposes.

OR

- ii. Other credible evidence that the worker actively sought qualifying work soon after the move. Documentation must contain one of the following:
 - a completed work application;
 - a statement from the grower; or
 - a newspaper article or something similar, documenting why the qualifying work was not obtained.

Note: The worker must have arrived at the destination (work site).

Early Move

In the case where the worker moves with the specific intent to seek or obtain qualifying work, but moves months in advance before this work is available, the recruiter **MUST** document in the Comments section of the COE Supplemental Documentation Form an explanation of why the worker arrived more than a month before the work was expected to begin. The QAD should be the date the family arrived at the destination, not the date the work began.

DETERMINING ECONOMIC NECESSITY

For purposes of the MEP, move or moved is defined as a change from one residence to another residence across school district lines that occurs due to economic necessity.

Because there is no income test for eligibility under the MEP, the recruiter must ask if other jobs support the household as a condition of determining economic necessity.

Professional Work

In cases where non-qualifying work is professional in nature, the family does not qualify for the MEP. Examples of individuals doing professional work may include business owners, independent contractors, lawyers, school principals or teachers, etc.

However, the recruiter may determine through interviewing the parent/worker that, due to **extenuating circumstances**, (e.g., parent is laid off, family member has a serious medical condition), the family could possibly qualify for the MEP. In such cases, the recruiter must forward the COE and detailed supplemental documentation to the regional ESC migrant contact who will then forward all documentation to the State MEP for an eligibility determination.

LEAs need to ensure that an extenuating circumstance does exist before sending a COE to the ESC. Do not send a COE forward solely because the parent/guardian is a professional. There must be an extenuating circumstance.

Note: A professional working for the Texas MEP at a district or regional level will never qualify for the program.

What



The fifth element of the basic eligibility criteria relates to **what** kind of work the worker obtained or intended to obtain as a result of the qualifying move and, thus, relates to the following terms, as defined by the MEP.

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

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.

FISHING WORK means the catching or initial processing of fish or shell fish or the raising or harvesting of fish or shellfish at fish farms. It consists of work performed for wages.

PRODUCTION refers to:

- working on farms, dairies, orchards, nurseries and greenhouses engaged in the production of crops, plants or vines;
- keeping, grazing or feeding of livestock or livestock products for sale;
- engaging in the production of bulbs, flower seeds and vegetable seeds;
- working in specialty operations such as sod farms, mushroom cellars and cranberry bogs.

INITIAL PROCESSING refers to:

- working with a raw agricultural or fishing product; and
- transforming the raw product into a more refined product.
- USDA definition of processing includes cooking, baking, curing, heating, drying, mixing, grinding, churning, separating, extracting, slaughtering, cutting, fermenting, distilling, eviscerating, preserving, dehydrating,

freezing, chilling, packaging, canning, jarring or otherwise enclosing food in a container.

Note: Working with a product that is already refined is beyond “initial processing” and therefore would not be a qualifying activity for the MEP.

CROP refers to:

- a plant that is harvested for use by people or livestock.

“DAIRYING” or **“DAIRY FARMING”** refers to:

- an industry in which dairy animals and products are produced and/or processed;
- milking cows, bringing cows in from pasture, cleaning pens and fence rows.

LIVESTOCK refers to:

- any domestic animal produced or kept primarily for breeding or slaughter purposes; and
- beef and dairy cattle, hogs, sheep, rabbits, deer, goats and horses.

Note: For purposes of the MEP, livestock does not include animals that are raised for sport, recreation, research or pets.

LIVESTOCK PRODUCTION refers to:

- actively taking care of animals.
- herding, handling, feeding, watering, caring for, branding, tagging and assisting in the raising of livestock.

POULTRY PRODUCTION and **PROCESSING** refers to:

- the raising of domestic fowl for flesh, eggs, feathers, down, breeding and by-products; and
- the production and processing of chickens, turkeys, cornish hens, ducks, geese, quail, ostrich, emus, pheasant and dove.

FISH FARMS refer to:

- a tract of water reserved for the raising or harvesting of fish or shellfish, such as crawfish, catfish, eels, oysters or clams;
- locations where fish are artificially cultivated, rather than caught in open running water as they would be in the “catching of fish.”

Note: When recording this activity on the COE, the recruiter should specify the activity, the type of fish being raised and reference the fish farm (e.g., raising catfish at fish farm).

PERSONAL SUBSISTENCE means that the worker and his or her 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.

Note: The Texas MEP does not qualify families under this definition, although some states do.

CULTIVATING OR HARVESTING OF TREES refers to:

- the soil preparation, planting, tending, pruning, felling and cutting of trees.

Transporting of trees is NOT an agricultural activity because it occurs after the cultivation and harvesting of trees. For this reason, transporting trees from a harvesting site to a processor (sawmill) does not qualify as an agricultural activity. Processing trees is not directly related to cultivation and harvesting of trees. Therefore, **processing trees** is not considered an agricultural activity.

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:

1. the employer states that the worker was hired for a limited time frame;
2. the worker states that the he/she does not intend to remain in that employment indefinitely; or
3. the State has determined on some other reasonable basis that the employment is temporary.

Note: Currently, the State of Texas has not documented any temporary employment and is awaiting further guidance from the U.S. Department of Education on this requirement. Until further guidance is received, all temporary employment must be based on either a worker's or an employer's statement.

UNUSUAL QUALIFYING WORK refers to:

- work that is unusual enough that a third-party is unlikely to understand that it is a qualifying activity. For activities that fall under this category, the recruiter must explain (1) type of work in detail and (2) why it qualifies. Make sure to consult with your ESC.

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TEXAS' AGRICULTURAL WORK (SEASONAL)

Texas is the nation's second-leading state in agricultural production. The state's diverse agricultural industry produces grains, fruits, vegetables, natural fibers and livestock. Agricultural commodities add an estimated \$16 billion annually to the state's economy, making agriculture the second largest industry in Texas. The table below provides examples of Texas crops for which farmers, traditionally, have depended upon migrant labor.

Some Examples of Texas Crops That May Require Manual Labor				
Apples	Corn for Seed	Guar Beans	Peanuts	Strawberries
Avocados	Cotton	Head Cabbage	Pears	Sugar Beets
Beets	Cucumbers	Herbs	Pecans	Sugarcane
Berries	Dry Beans	Hot Peppers	Persimmons	Sweet Corn
Blackberries	Dry Chickpeas	Kale	Plums	Sweet Peppers
Blueberries	Dry Onions	Lemons	Potatoes	Sweet Potatoes
Broccoli	Eggplants	Mustard Greens	Pumpkins	Tangerines
Cantaloupes	Grapefruit	Okra	Snap Beans	Tomatoes
Carrots	Grapes	Oranges	Southern Peas	Turnip Greens
Christmas Trees	Green Onions	Parsley	Spinach	Turnips
Collards	Green Peas	Peaches	Squash	Watermelons

SOME EXAMPLES OF SEASONAL AGRICULTURAL AND FISHING WORK

AGRICULTURAL ACTIVITIES			FISHING ACTIVITIES
Production of Crops	Processing of Crops	Dairy Farming	
Cultivating – cotton, beans, onions, etc.	Canning – tomatoes, peas, olives, pickles, etc.	Haying	Butchering – live crabs, fresh, frozen or salted fish Cultivating – oysters
Detasseling – corn	Chilling – radishes, sugarcane, watermelon, aloe vera, etc.	Planting seeds for hay and grain	Digging – clams
Fertilizing – peanuts, apples, oranges, cotton, lettuce, etc.	Drying – herbs, parsley, cilantro, etc.	Plowing	Dredging – shellfish, scallops
Irrigating – cotton, carrots, tomatoes, etc.	Freezing – broccoli, spinach, onions, corn, etc.		Filleting – salmon, tuna, trout, rockfish, flounder
Picking – peaches, carrots, strawberries, cotton, etc.	Hydrating – potatoes		Gillnetting – crabs, rockfish, lobsters, halibut
Planting – oranges, apples, trees, etc.	Jarring – peaches, pears, figs, shrimp, brine, etc.		Harvesting crawfish at fish farm
Thinning – sugar beets, cucumbers, tomatoes, cotton, etc.	Packaging – asparagus, cantaloupes, mangoes, etc.		Trapping – lobsters, crabs, hagfish
Weeding – lettuce, tomatoes, celery, squash, pickles, etc.	Crop Related	Crop Related	Trawling – pollock, flounder, sole, tuna, crab, shrimp
In addition to foods and fiber, production of crops includes nursery plants, Christmas trees, flowers (e.g., pruning roses at a nursery), turf, etc.	Initial transportation of agricultural products from a field to a warehouse, cannery or packing shed. Must specify on COE the commodity being transported, origination point and destination (e.g., transporting tomatoes from the field to the cannery).	Preparing or clearing land for an agriculturally-related purposes (e.g., clearing land to plant cotton)	Trolling – salmon

TESTS TO DETERMINE TEMPORARY EMPLOYMENT

The recruiter may use any of the tests below to help determine if the qualifying work is temporary:

- The work lasts for a limited period of time, usually a few months, but no longer than 12 months.
- The employer states that the worker was hired for a limited time frame. Timeframe must be less than 12 months.
- The worker states that he/she does not intend to remain in that employment indefinitely.
- The State may have determined that the particular type of employment is temporary in nature.

Note: Currently, the State of Texas has not documented any temporary employment and is awaiting further guidance from the U.S. Department of Education on this requirement. Until further guidance is received, all temporary employment must be based on either a worker's or an employer's statement

PERMANENT WORK

Permanent work NEVER qualifies for the MEP. Recruiters must be careful when recruiting at a processing plant that they establish the temporary nature of the work. If the worker indicates that he/she was hired for a probationary period, then the worker most likely *has the intention of remaining on the job permanently*. If a recruiter has specific reason to believe the worker does not intend to perform the work indefinitely (e.g., the worker has a documented history of migrancy), then the COE and accompanying documentation should be forwarded to the State MEP for review as an extenuating circumstance.

SOME EXAMPLES OF *TEMPORARY* AGRICULTURAL AND FISHING WORK

AGRICULTURAL ACTIVITIES			FISHING ACTIVITIES
Livestock Related	Poultry Related	Dairy Farming	Processing Related to Fishing
<i>Involving Production...</i>	<i>Involving Production...</i>	Building and repairing fences	Cleaning, washing, sorting fish/shrimp/crab/oysters/crawfish
Building or repairing fences	Cleaning chicken coops	Cleaning fence rows	
Building pens, stalls, barns	Daily feeding and watering of birds	Fertilizing pastures	Deboning fish
Cleaning animals, stalls, pens	Gathering eggs	Irrigating	Deveining, deheading shrimp/crawfish
Feeding and watering	Loading birds for transportation	Milking cows	Shelling, declawing crabs
Irrigating pastures	Placing eggs in trays	Spraying for weed control	Sizing shrimp
Loading and unloading	Preparing eggs for shipment	Washing barns; scraping lots	Stuffing, canning, packing, packaging, weighing, labeling fish/shrimp/crab/oysters/crawfish
Weeding/clipping pastures	Sexing, debeaking and vaccinating birds	Crop Related	
Working in feed lots	Unloading and spreading shavings or other bedding materials		
	Unloading feed		
		Building or repairing an agriculturally-related structure (e.g., building a pen)	
		Cultivating or harvesting trees (e.g., shaping Christmas trees)	
<i>Involving Processing...</i>	<i>Involving Processing...</i>	Preparing or clearing land for an agriculturally-related purpose (e.g., spreading fertilizer)	
Boxing beef/pork/chicken	Chilling chickens and parts		
Cutting meat	Grading birds		
Deboning beef, pork, chicken	Hanging chickens to prepare them for slaughter		
Labeling beef/pork/chicken parts			
Loading packaged meat	Killing, deheading and bleeding chickens		
Preparing/processing/tanning hides	Opening body cavity		
Removing excess fat	Packing and icing chicken parts		
Rendering by-products	Removing feathers		
Weighing cuts of beef/pork/chicken	Scalding chickens		
	Stacking boxes of chickens/parts for refrigeration		
	Unloading birds from coops		

EXAMPLES OF NON-QUALIFYING WORK ACTIVITIES

- Cleaning or sterilizing farm machinery or processing equipment
- Landscaping
- Managing a farm or processing plant
- Providing accounting, bookkeeping or clerical services
- Providing babysitting or child care services for farmworkers
- Repairing or maintaining equipment used for production or processing
- Selling an agricultural or fishing product
- Trucking
- Working at a restaurant
- Working at a sawmill

NON-QUALIFYING CONDITIONS

The following are examples of non-qualifying conditions:

- Work in which a worker is hired on a “probationary basis.”
- Permanent employment in a qualifying activity.
- A move to Mexico.
- Subsequent non-qualifying moves (e.g., for the sole purpose of finding a new residence, taking a vacation, personal reasons).
- A single one-day move.
- Daily commuting from the worker’s homebase.
- A move where the worker never arrived at the destination (work site).
- A move for political asylum.
- A “to join” move in which a child and the worker are “joined” more than a year after the initial move to engage in qualifying work.

The following are examples in which the State MEP may determine extenuating circumstances exist:

- An international move from a non-border country.
- Supplemental income involving work in a professional field.
- Personal subsistence.
- Other non-qualifying condition.

COMMENTS

There are two kinds of comments that recruiters must provide when completing a COE: **(1) required eligibility comments**, which are related to the eligibility determination; and **(2) procedural comments**, which are used for clarification purposes.

REQUIRED COMMENTS (Related to Eligibility Determination)

The following nine situations require comments to substantiate the child's eligibility for the Migrant Education Program. If two or more of the conditions listed below exist, the recruiter must refer the situation to the ESC for the eligibility determination.

Situation:	Required Comment:
“To Join” Move (2)bi	Document the reason for the child’s later move or the worker’s later move.
Work Sought But Not Obtained (4)c	<p>Write, <i>“The worker stated that one purpose of the move was to obtain qualifying work”</i> and document one of the following:</p> <ul style="list-style-type: none"> i. The worker’s prior history of moves to obtain qualifying work. If the worker’s history of migration has not been recorded on NGS, the recruiter must supply: <ul style="list-style-type: none"> • qualifying arrival dates (QADs); • types of employment previously obtained; and • from/to information for qualifying moves. <p>OR</p> <ul style="list-style-type: none"> ii. Other credible evidence that the worker actively sought qualifying work soon after the move. Documentation must contain one of the following: <ul style="list-style-type: none"> • a completed work application; • a statement from the grower; or • a newspaper article or something similar, documenting why the qualifying work was not obtained.

Situation:	Required Comment:
Temporary Employment (worker's statement) (6)a	Document the weeks/months the qualifying work lasted/is expected to last based on the worker's statement. Timeframe must be less than 12 months.
Temporary Employment (employer's statement) (6)b	Document the weeks/months the qualifying work lasted/is expected to last based on the employer's statement. Timeframe must be less than 12 months.
Early Move	Explanation of why the worker arrived more than a month before the work was expected to begin.
Qualifying Move to Homebase	If temporary , document that the worker did not return home to resume permanent employment by supplying (1) either the worker's or employer's statement concerning the timeframe for which the worker was hired and (2) statement that the worker has not returned to previous employer.
	If seasonal , the timeframe in which that specific qualifying work is available in that area.
Short Distance Move (100 miles or less one-way)	Document (1) the distance from the homebase to the temporary residence; and (2) where the family resided on a temporary basis.
Short Duration Move (7 days or less)	Document (1) why the length of stay was short; and (2) where the family resided on a temporary basis.
Unusual Qualifying Work	Explain (1) type of work in detail and (2) why it qualifies. Make sure to consult with your ESC.

PROCEDURAL COMMENTS (Used for Clarification Purposes)

Procedural comments are necessary because they help clarify information on the COE. Some examples of procedural comments include:

Situation:	Procedural Comment:
Changes Made to COE	Document changes/updates made to the COE when clarification may be necessary.
Cross Referencing COEs when: <ul style="list-style-type: none"> • Children from same family have different QADs; OR • Relationships of family members need clarification. 	Cross reference the related COEs by providing the clarifying information on the COE Supplemental Documentation Form and by referencing the number of COEs in the space provided at the top of the COE (e.g., COE <u>1 of 2</u> or COE <u>2 of 2</u>).
Family is Recruited More than One Year after the QAD	Clarify the circumstances surrounding why the family had not been identified earlier.
Intrastate Move	Provide a comment that the COE(s) completed by previous district(s) documenting the family's latest qualifying move (related to the QAD on the new COE) are attached.
Moves Involving a Self-Eligible Youth	For self-eligible youth, document how qualifying work contributes to the economic necessity of the household.
Moves or Interviews Involving a Guardian	Document the relationship of the guardian to the child(ren).

PROCEDURAL COMMENTS (continued)

Situation:	Procedural Comment:
Birth Date Verification Code – Verbal Statement or Other	When written evidence is not available to verify a child’s birth date or Other is used, document by checking the appropriate box on the COE Supplemental Documentation Form for Code 07 and Code 99 (specify the evidence provided).
Section H. – Continued Residency Verification	<p><u>Method Used:</u> If “Other” is used, please specify on the COE Supplemental Documentation Form how or where the residency verification took place.</p> <p><u>Signature of Person Interviewed:</u> If the person who was interviewed is not the same person who signed the original COE, explain in the Comments section of the COE Supplemental Documentation Form the relationship of this person to the child(ren) on the COE.</p>
Section H. – Residency Verification for P2s Turning P3	Document on the COE Supplemental Documentation Form by checking the appropriate box and providing the name of the parent/guardian who was interviewed, the date of the interview and where the interview took place (e.g., school, home, etc.).
Here-to-Work	For youth who are solely “Here-to-Work,” document the following comment on the COE Supplemental Documentation Form: “(name of youth) is here to work.”
Home-Schooled	For children who are home-schooled, document the following comment on the COE Supplemental Documentation Form: “(name of youth) is home-schooled.”
Private School	For children who attend a private school, document the following comment on the COE Supplemental Documentation Form: “(name of child) attends (name of private school).”

DIFFICULT ELIGIBILITY DETERMINATIONS

Difficult eligibility determinations that warrant further review must be forwarded to the regional ESC level for review and approval. Migrant staff at the regional ESC will then forward the information to the State MEP for an eligibility determination, as outlined by the MEP quality control procedures. The quality control system which the State implements must ensure that eligibility decisions are explained well in the **Comments** section of the COE Supplemental Documentation Form and contain sufficient narrative to satisfy state and federal auditors.

COEs and CONDITIONS WARRANTING FURTHER REVIEW

COEs:

Changes Related to QADs

LEAs cannot change QADs on COEs. The LEA must forward COE and reasons why QAD should be changed to the ESC migrant staff who will immediately consult with the State MEP.

COEs Containing More than One Required Eligibility Comment

If the COE needs more than one required comment in order to document eligibility, the recruiter must refer the situation to the ESC for review. The Designated SEA Reviewer should not sign the COE until it has been returned and approved by the ESC. The ESC will make a determination as to the reasonableness of the worker's eligibility and make a comment regarding the worker's eligibility for the MEP on the COE Supplemental Documentation Form.

CONDITIONS:

Parents Do NOT Validate Information Collected Previously

The parent does not validate the eligibility information on a previous COE. This may occur when a family changes residences within the state without making a new qualifying move. When a recruiter interviewing a family on an existing QAD receives conflicting information, the LEA must complete a new COE with the parent's new information and send a copy of the new COE, along with an explanation, to the ESC. The ESC will forward a copy to the previous school district for their records.

Extenuating Circumstances

If the recruiter feels that extenuating circumstances exist, the LEA must refer the situation to the ESC who will forward all documentation to the State MEP for an eligibility determination.

Potentially Misidentified Children

The LEA must forward COE and all supporting documentation to the ESC who will immediately consult with and forward information to the State MEP.

The following illustrates how difficult eligibility determinations are made:

MAKING DIFFICULT ELIGIBILITY DETERMINATIONS

1. LEA

The recruiter faced with difficulty determining eligibility gathers all relevant information and forwards it to the ESC's migrant staff.

2. Regional ESC

The ESC migrant staff reviews information and may consult with State MEP or contact other regional ESC for additional information.

3. State MEP

The State MEP staff will determine:

- ★What guidance was given if a similar case has been reviewed in the past; and
- ★If no precedent case is on file, eligibility will be decided based on the facts of the individual case.

The State MEP will then contact the ESC and **give the eligibility determination**, as well as share the information at the earliest opportunities (training sessions, via Listserv, etc.).

4. Regional ESC

The regional ESC staff must share eligibility decision:

- ★With the inquiring district immediately, and
- ★With all other MEP-funded districts in their service area within 30 days of being notified by the State.

5. LEA

The recruiter thoroughly explains the eligibility decision in the **Comments** section of the COE Supplemental Documentation Form. This documentation must be detailed enough to satisfy a state or federal auditor.

MIGRANT EDUCATION PROGRAM ELIGIBILITY FLOW CHART

The eligibility flow chart follows the eligibility determination process for the recruiter and should be referred to in determining eligibility whenever there is a question on how a question is answered by the worker. For a copy of the eligibility flow chart, please contact the State MEP.

ELIGIBILITY SCREENING TOOL

The eligibility screening tool may be used to screen for potential eligibility for the program prior to filling out the COE. Depending on the parent's responses to the questions below, the recruiter will know whether he/she should proceed with completing the COE.

Recruiters may often need to deviate from the questions below in order to clarify confusing eligibility-related issues or to probe for other relevant information.

- Where did you move from (city, state, country)?
 - Where did you move to (city, state, country)?

- Who moved?
 - Did a child younger than 22 move with you?
 - Did a child younger than 22 move to join you?
 - Was the worker younger than 22 (a self eligible youth)?

- When was the most recent time the children in your family moved (month, year)?

- Has your family (or part of your family) ever moved across a school district boundary due to economic necessity?

- Why did you make that move?
 - What kind of work were you seeking?
 - Were you specifically seeking temporary or seasonal agriculturally-related work?
 - What kind of work did you obtain?
 - If the work obtained was not in agriculture, why not?