

**From the NPRM:**

§200.89 MEP allocations; Re-interviewing; Eligibility documentation; and Quality control.

(a) Allocation of funds under the MEP for fiscal year (FY) 2006 and subsequent years. (1) For purposes of calculating the size of MEP awards for each SEA for FY 2006 and subsequent years, the Secretary determines each SEA's FY 2002 base allocation amount under section 1303(a)(2) and (b) of the Act by applying, to the counts of eligible migratory children that the SEA submitted for 2000-2001, the defect rate that the SEA reports to the Secretary and that the Secretary accepts based on a statewide re-interviewing process that the SEA has conducted.

(2) The Secretary conditions an SEA's receipt of final FY 2006 and subsequent-year MEP awards on the SEA's completion of a thorough re-documentation of the eligibility of all children (and the removal of all ineligible children) included in the State's 2006-2007 MEP child counts.

(b) Responsibilities of SEAs for re-interviewing to ensure the eligibility of children under the MEP.

(1) Retrospective re-interviewing.

(i) As a condition for the continued receipt of MEP funds in FY 2006 and subsequent years, an SEA that received

such funds in FY 2005 but did not implement a statewide re-interviewing process and submit a defect rate accepted by the Secretary under §200.89(a) must, within six months of the effective date of these regulations, or as subsequently required by the Secretary under paragraph (b)(2)(vii) of this section--

(A) Conduct a statewide re-interviewing process consistent with paragraph (b)(1)(ii) of this section; and

(B) Consistent with paragraph (b)(1)(iii) of this section, report to the Secretary on the procedures it has employed, its findings, its defect rate, and corrective actions it has taken or will take to avoid a recurrence of any problems found.

(ii) At a minimum, the re-interviewing process must include--

(A) Selection of a sample of identified migratory children (from the child counts of a particular year as directed by the Secretary) randomly selected on a statewide basis to allow the State to estimate the statewide proportion of eligible migratory children at a 95 percent confidence level with a confidence interval of plus or minus 5 percent.

(B) Use of independent re-interviewers (i.e., interviewers who are neither SEA or local operating agency

staff members working to administer or operate the State MEP nor any other persons who worked on the initial eligibility determinations being tested) trained to conduct personal interviews and to understand and apply program eligibility requirements; and

(C) Calculation of a defect rate based on the number of sampled children determined ineligible as a percentage of those sampled children whose parent/guardian was actually re-interviewed.

(iii) At a minimum, the report must include--

(A) An explanation of the sample and procedures used in the SEA's re-interviewing process;

(B) The findings of the re-interviewing process, including the determined defect rate;

(C) An acknowledgement that, consistent with §200.89(a), the Secretary will adjust the child counts for 2000-2001 and subsequent years downward based on the defect rate that the Secretary accepts;

(D) A summary of the types of defective eligibility determinations that the SEA identified through the re-interviewing process;

(E) A summary of the reasons why each type of defective eligibility determination occurred; and

(F) A summary of the corrective actions the SEA will take to address the identified problems.

(2) Prospective re-interviewing. As part of the system of quality controls identified in §200.89(d), an SEA that receives MEP funds must, on an annual basis, validate current-year child eligibility determinations through the re-interview of a randomly selected sample of children previously identified as migratory. In conducting these re-interviews, an SEA must--

(i) Use, at least once every three years, one or more independent interviewers (i.e., interviewers who are neither SEA or local operating agency staff members working to administer or operate the State MEP nor any other persons who worked on the initial eligibility determinations being tested) trained to conduct personal interviews and to understand and apply program eligibility requirements;

(ii) Select a random sample of identified migratory children so that a sufficient number of eligibility determinations in the current year are tested on a statewide basis or within strata associated with identified risk factors

(e.g., experience of recruiters, size or growth in local migratory child population, effectiveness of local quality control procedures) in order to help identify possible problems with the State's child eligibility determinations;

(iii) Conduct re-interviews with the parents or guardians of the children in the sample. States must use a face-to-face approach to conduct these re-interviews unless extraordinary circumstances make face-to-face re-interviews impractical and necessitate the use of an alternative method of re-interviewing;

(iv) Determine and document in writing whether the child eligibility determination and the information on which the determination was based were true and correct;

(v) Stop serving any children found not to be eligible and remove them from the data base used to compile counts of eligible children;

(vi) Certify and report to the Department the results of re-interviewing in the SEA's annual report of the number of migratory children in the State required by the Secretary; and

(vii) Implement corrective actions or improvements to address the problems identified by the State (including the

identification and removal of other ineligible children in the total population) and any corrective actions required by the Secretary, including retrospective re-interviewing.

(c) Responsibilities of SEAs to document the eligibility of migratory children. (1) An SEA and its operating agencies must use the Certificate of Eligibility (COE) form established by the Secretary to document the State's determination of the eligibility of migratory children.

(2) In addition to the form required under paragraph (a) of this section, the SEA and its operating agencies must develop and maintain such additional documentation as may be necessary to confirm that each child found eligible for this program meets all of the eligibility definitions in §200.81.

(3) An SEA is responsible for the accuracy of all the determinations of the eligibility of migratory children identified in the State.

(d) Responsibilities of an SEA to establish and implement a system of quality controls for the proper identification and recruitment of eligible migratory children. An SEA must establish and implement a system of quality controls for the proper identification and recruitment of eligible migratory children on a statewide

basis. At a minimum, this system of quality controls must include the following components:

(1) Training to ensure that recruiters and all other staff involved in determining eligibility and in conducting quality control procedures know the requirements for accurately determining and documenting child eligibility under the MEP.

(2) Supervision and annual review and evaluation of the identification and recruitment practices of individual recruiters.

(3) A formal process for resolving eligibility questions raised by recruiters and their supervisors and for transmitting responses to all local operating agencies in written form.

(4) An 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.

(5) A process for the SEA to validate that eligibility determinations were properly made, including conducting prospective re-interviewing as described in §200.89(b)(2).

(6) Documentation that supports the SEA's implementation of this quality-control system and of a

record of actions taken to improve the system where periodic reviews and evaluations indicate a need to do so.

(7) A process for implementing corrective action if the SEA finds COEs that do not sufficiently document a child's eligibility for the MEP, or in response to internal audit findings and recommendations.

(Authority: 20 U.S.C. 6391-6399, 6571, 7844(d); 18 U.S.C. 1001)