



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

FEB 14 2005

MEMORANDUM TO STATE DIRECTORS OF MIGRANT EDUCATION

SUBJECT: Categorical Eligibility of Migrant Children for Free School Meals

I want to make certain that you all know that, in late June of 2004, the President signed into law P.L. 108-265 that reauthorized and amended the Richard Russell School Lunch Act and the Child Nutrition Act. Among the amendments was a new provision that made migrant children "categorically eligible" to receive free school meals once documentation of their status as migrant children was provided to the school food authorities (SFAs) and local educational agencies (LEAs).

In brief, this term "categorically eligible" means that a migrant child, simply by being documented as a migrant child, can receive free school breakfasts and lunches without the child's family having to complete and submit any written application or otherwise provide information as to the family's income level to justify receipt of free or reduced price meals. For purposes of this new categorical eligibility provision, the term "migrant child" means a child who meets the definition in sec. 1309(2) of Title I, Part C of the Elementary and Secondary Education Act - that is, one who has been identified and documented as an eligible migrant child by your State Migrant Education Program (MEP).

The U.S. Department of Agriculture's Food and Nutrition Service (FNS) has the responsibility for administering the school food programs, and has already developed and issued policy guidance to its State Agencies, Regional Programs, SFAs and the LEAs about how to implement the new provision for migrant children. A copy of this FNS policy guidance is attached.

Please understand that this FNS policy guidance was developed in consultation with the Office of Migrant Education (OME), and we concur with it completely.

The guidance lays out a relatively simple process by which a State MEP can, either through its local operating agencies (LOAs) or directly, work with the SFAs and LEAs that administer the school meals programs to provide them periodically with dated lists of eligible migrant children (i.e., those children for whom the State MEP and/or its LOAs has identified and documented as eligible under the Title I, Part C MEP) so that the SFAs and LEAs can immediately notify the families as to the free meal eligibility and begin to provide the free school meals to the identified migrant children.

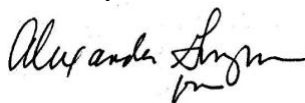
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As you will see in the FNS guidance, the amended legislation permits eligibility for free meals, when once established in a school year, to continue for the remainder of the school year and for up to 30 days in the subsequent school year.

The amended legislation provides a significant benefit to migrant children so please review the attached FNS guidance document, and, if your State MEP and its LOAs are not already coordinating with your State and local school food personnel, please begin to coordinate with them immediately.

If you have any questions about this matter, please do not hesitate to contact James English of my staff at 202-260-1394 or by email at james.english@ed.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Francisco Garcia". The signature is written in a cursive style with a large initial "F" and "G".

Francisco Garcia
Director,
Office of Migrant Education

Attachment

Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.



August 16, 2004

**United States
Department of
Agriculture**

Food and
Nutrition
Service

3101 Park
Center Drive
Alexandria, VA
22302-1500

SUBJECT: Categorical Eligibility for Free Lunches and Breakfasts for Migrant Children

TO: Special Nutrition Programs
All Regions

State Agencies
Child Nutrition Programs
All States

This memorandum supplements our Reauthorization Implementation Memo SP 4 (July 19, 2004) by providing additional information on identifying migrant children and on the procedures that school food authorities (SFAs) and local education agencies (LEAs) should use to coordinate with the Migrant Education Program (MEP) in order to document the categorical eligibility of migrant children for free meals.

Background on the Migrant Education Program

The MEP is authorized under Title I, Part C of the Elementary and Secondary Education Act (ESEA) and provides grants to State educational agencies. The State educational agency, in turn, makes sub-grants to LEAs and other entities to provide supplemental educational and support services to migrant children. A major goal of the MEP is to minimize the disruption caused by migrant children's frequent moves. While the full definition of a migrant child in section 1309 of ESEA is rather complicated, in general under this definition, a migrant child is one who has moved across school district lines, within the last three years, in order to accompany or join a parent or guardian who has moved to seek or obtain temporary or seasonal work in agriculture or fishing.

Please note, however, that it is not necessary for local SFA personnel to apply the ESEA definition because there are already State educational agency and local MEP staff who are responsible for identifying (and maintaining supporting documentation) as to who is an eligible migrant child under ESEA.

Local Level MEP Contacts

Most State educational agencies sub-grant MEP funds to local operating agencies (LOAs) to provide program services. These LOAs are typically LEAs; however, in some states, the LOAs may be regional units that administer the MEP in multiple LEAs. When an LOA/LEA receives MEP funds, a MEP coordinator is usually designated. (However, in some LEAs, a Federal program director administers multiple federal programs including the MEP). Each LEA/LOA typically identifies and recruits migrant children in their geographic area and maintains a list of eligible migrant children.

Regional Directors
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Documenting Free Meal Eligibility for Migrant Children

SFAs/LEAs should work directly with their LOA/LEA MEP coordinators or, where appropriate, the State MEP director, to identify migrant children and to document their eligibility for free school meals. SFAs/LEAs must accept documentation that the children are migrant children from the LOA/LEA MEP coordinator.

Documentation of migrant status to substantiate free meal eligibility is a dated list with each child's name and the signature of the LOA/LEA MEP coordinator or the State MEP director. This documentation is in lieu of free and reduced price meal applications and must be sought, as much as possible, prior to a household completing an application. Once documentation is obtained, the SFA/LEA must notify the household as soon as possible about the child's free meal eligibility. Any application submitted on behalf of the child would be disregarded.

It is particularly important that newly arrived migrant children in the LEA be documented and certified for free meals as promptly as possible. SFAs/LEAs need to establish procedures with the LOA/LEA MEP coordinator to assure prompt notification when a new migrant child is identified.

Continuing Certification

Public Law 108-265 also amended the Richard B. Russell National School Lunch Act to establish that, once a child is certified as eligible to receive free or reduced price meals, eligibility remains effective for the remainder of the school year. Our policy further allows SFAs to continue a child's eligibility from the previous year for 30 operating days into the subsequent school year or until a new eligibility determination is made, whichever occurs first. Because of this and because the MEP strives to minimize a child's disruption in services and benefits, SFAs/LEAs should attempt to share the child's free meal eligibility status with the new SFA/LEA when a migrant child moves from their jurisdiction if the family knows their new location.

Please contact Rosemary O'Connell in my office if you have any questions on this guidance.

STANLEY C. GARNETT
Director,
Child Nutrition Division