

## DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Part 201

**Implementation of the Funding Formula Under Part C of Title I of the Elementary and Secondary Education Act (ESEA)**

AGENCY: Department of Education.

ACTION: Notice of proposal; request for comments.

**SUMMARY:** The Assistant Secretary of Education for Elementary and Secondary Education (Assistant Secretary) proposes a method for implementing section 1303(e)(3) of Title I of the Elementary and Secondary Education Act (ESEA), as amended by the Improving America's Schools Act (IASA), under which provision of Migrant Education Program (MEP) services during intersession periods would be factored into calculations of State MEP allocations for fiscal year (FY) 1995.

The Assistant Secretary also solicits comments on how, given the end of the Migrant Student Record Transfer System (MSRTS), the Department should obtain information on the estimated number of migratory children residing in each State, as is required under section 1303(e) of ESEA, in order to make MEP allocations for FY 1996 and beyond.

**DATES:** Written comments must be received on or before February 10, 1995.

**ADDRESSES:** Comments sent by mail should be addressed to James English, Program Analyst, Office of Migrant Education, U.S. Department of Education, 600 Independence Avenue, SW., Portals Building, Room 4100, Washington, DC 20202-6135. The Internet address for comments is James—English@ed.gov. The FAX number is 202-205-0089.

**FOR FURTHER INFORMATION CONTACT:** James English, Office of Migrant Education, U.S. Department of Education, 600 Independence Avenue, SW., Portals Building, Room 4100, Washington, DC 20202-6135. Telephone: (202) 260-1394. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

## SUPPLEMENTARY INFORMATION:

**Background**

State allocations under the MEP are based on a formula that uses State per-pupil expenditures and counts of the number of eligible migratory children residing in each State full- and part-time. Until enactment of the IASA, the Department determined the number of eligible migratory children residing in each State on the basis of information from the MSRTS on the full-time-equivalent (FTE) number of migratory children in each State during the prior calendar year. The MSRTS will go out of existence on June 30, 1995. Calendar year 1994 will be the last year for which FTE counts of eligible migratory children will be available from the MSRTS. Thereafter, the Department will have no single source of information from the prior calendar year that can be used for purposes of determining MEP allocations for FY 1996 and beyond.

Section 1303(e)(3) of Title I of the ESEA, as amended by the IASA, now requires the Department to adjust the number of migratory children residing in each State full- and part-time to take into consideration the needs of students participating in, and the costs of programs operating during, both summer and intersession periods.

(Note: The Department defines intersession periods as those periods of time when a year-round school is not in session.)

Prior law only required the Department to make an adjustment on the basis of programs that operated during the summer, which the Department had defined as May 15 through August 31. The Department does not, at present, have information to make adjustments in the MEP formula based on MEP projects that operate during intersession periods. Moreover, the Department will be able to implement this provision as part of the allocation formula for FY 1995 MEP funds only if an acceptable source of information can be found.

The Department is proposing a method for implementing section 1303(e)(3) for FY 1995, and is requesting public comment on the proposal and the availability of information to implement it (See Issue 1). With regard to changes in allocating funds beginning with FY 1996 that stem from the end of the MSRTS, the Department is requesting public comment on a number of approaches that appear to be available (See Issue 2).

**Issue 1: Adjusting the FY 1995 MEP State Formula Allocation for Children Participating in Programs Operated During Intersession Periods**

Subsection 1303(e)(3) of the ESEA provides for implementation of an intersession period adjustment for FY 1995 MEP awards. However, while the MSRTS can provide the Department with FTE data on the overall number of eligible migratory children residing in each State and the number of those served by the MEP in summer periods (and this data can be adjusted to reflect the 36-month eligibility period required by section 1309(a) of Title I, as amended) for purposes of FY 1995 MEP allocations, neither MSRTS nor the Department has similar data relating to intersession periods.

The Department believes that an accurate intersession period adjustment to the FY 1995 MEP allocations can only be made using information on migratory student participation in intersession periods that is comparable to data that the MSRTS provides on counts of migratory children served in regular-term and summer programs during calendar year 1994. Thus, to make an adjustment of FY 1995 MEP allocations for intersession period participation, the Department will need data for each State on the FTE number of migratory children served by MEP projects, in calendar year 1994, in those intersession periods that occur outside the period, from May 15 to August 31, 1994, for which a summer adjustment is already being made. Additionally, these FTE counts will need to reflect only those migratory children who are eligible based on the 36-month eligibility period required by section 1309(a) of Title I, as amended.

The Department invites comments from the public, especially SEA staff, as to the availability of these data and any other options for adjusting the FY 1995 MEP allocation accurately to reflect participation by migratory children in intersession period MEP programs.

**Issue 2: Collection of Migratory Childcount Data for FY 1996 and Thereafter, Given the End of the MSRTS**

While FTE data from calendar year 1994 (including the summer adjustment) will be available to the Department in order to make the FY 1995 MEP allocations, the pending end of the MSRTS in 1995 requires the Department and States receiving MEP funds to utilize a new procedure to allocate MEP funds appropriated for FY 1996 and later.

The Department believes that any future procedure for determining State MEP allocations should be simple and cost-efficient. Possible approaches include, but are not necessarily limited to, the following:

- States could report standard data—either at several points in the year, annually, or perhaps once every few years—on an unduplicated count of eligible migratory children identified as residing in the State during a given year. These data could be collected and reviewed (subject to audit) for accuracy relatively easily by counting the children listed as eligible on the Certificates of Eligibility (COEs) that the State and its operating agencies will continue to use to document eligibility. (The COE is a legal document, completed by an individual authorized by the State to recruit for the MEP, which contains information explaining the basis on which a particular child has been determined to be a migratory child.) States would have to make sure that a child listed on COEs maintained by two different local agencies is counted only once for the regular year (or period)—to ensure that an unduplicated count is reported. Similarly, unique counts of children present during the summer or intersession periods could also be compiled by the States based on COEs (or other data on participants

maintained by the State or its subgrantees).

- The Department could continue to use the calendar year 1994 FTE data from MSRTS to make allocations in FY 1996 and, perhaps, for subsequent years. Using 1994 data for making allocations in more than one fiscal year would be cost-effective and would require less burden on State and local agencies than collecting and reporting participation data annually. Other Federal programs, such as Title I, Part A, always have used data collected in one year to allocate funds in more than one subsequent fiscal year.

- States might report, annually or periodically, an unduplicated count of migratory children served in Title I, Part C programs during the regular school term, and in summer or intersession periods in a prior year. These data would be similar to those the States now submit for MEP participation reports.

- The Department could commission periodic national surveys of the population of migratory children in sufficient detail to yield estimates of the number of these children who reside in each State.

The Assistant Secretary invites comments on the above approaches, as well as recommendations (with justifications) for other possible options.

#### **Invitation to Comment**

The Department solicits the views of interested parties, particularly parents

of migratory students, and those State and local administrators and teachers who serve migratory children under the MEP. The Assistant Secretary requests that each commenter identify his or her role in education and the perspective from which he or she views the educational system—either as a representative of an association, agency, or school (public or private), or as an individual teacher, parent or public citizen. The Assistant Secretary urges each commenter to be specific regarding his or her recommendations.

All comments submitted in response to this notice will be available for public inspection during and after the comment period in room 4100 Portals Building, 1250 Maryland Ave., SW., Washington, DC, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday of each week, except Federal holidays.

(Program Authority: Section 1303(e) of Title I of the ESEA, as amended.)  
(Catalog of Federal Domestic Assistance Number: 84.011, Migratory Education Basic State Formula Grant Program)

Dated: January 3, 1995.

**Thomas W. Payzant,**

*Assistant Secretary for Elementary and Secondary Education.*

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