

## § 200.80

area or school for programs that meet the intent and purposes of title I of the ESEA.

(b) A program meets the intent and purposes of Title I if the program either—

(1)(i) Is implemented in a school in which the percentage of children from low-income families is at least 40 percent;

(ii) Is designed to promote schoolwide reform and upgrade the entire educational operation of the school to support students in their achievement toward meeting the challenging State academic standards that all students are expected to meet;

(iii) Is designed to meet the educational needs of all students in the school, particularly the needs of students who are failing, or are most at risk of failing, to meet the challenging State academic standards; and

(iv) Uses the State's assessment system under §200.2 to review the effectiveness of the program; or

(2)(i) Serves only students who are failing, or are most at risk of failing, to meet the challenging State academic standards;

(ii) Provides supplementary services designed to meet the special educational needs of the students who are participating in the program to support their achievement toward meeting the State's student academic achievement standards; and

(iii) Uses the State's assessment system under §200.2 to review the effectiveness of the program.

(c) The conditions in paragraph (b) of this section also apply to supplemental State and local funds expended under section 1113(b)(1)(D) and 1113(c)(2)(B) of the ESEA.

[82 FR 31713, July 7, 2017, as amended at 84 FR 31676, July 2, 2019]

### Subpart B—Even Start Family Literacy Program

## § 200.80 [Reserved]

### Subpart C—Migrant Education Program

SOURCE: 67 FR 71736, Dec. 2, 2002, unless otherwise noted.

## 34 CFR Ch. II (7–1–23 Edition)

### § 200.81 Program definitions.

The following definitions apply to programs and projects operated under this subpart:

(a) *Agricultural work or employment* means the production or initial processing of raw agricultural products such as crops, trees, dairy products, poultry, or livestock. It consists of work performed for wages or personal subsistence.

(b) *Consolidated Student Record* means the MDEs for a migratory child that have been submitted by one or more SEAs and consolidated into a single, uniquely identified record available through MSIX.

(c) *Fishing work or employment* means the catching or initial processing of fish or shellfish or the raising or harvesting of fish or shellfish at fish farms. It consists of work performed for wages or personal subsistence.

(d) [Reserved]

(e) *Migrant Student Information Exchange (MSIX)* means the nationwide system administered by the Department for linking and exchanging specified educational and health information for all migratory children.

(f) *Migratory agricultural worker* means an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in agriculture, which may be dairy work or the initial processing of raw agricultural products. If an individual did not engage in such new employment soon after a qualifying move, such individual may be considered a migratory agricultural worker if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal agricultural employment.

(g) *Migratory child* means a child or youth who made a qualifying move in the preceding 36 months as a migratory agricultural worker or a migratory fisher; or with, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher.

(h) *Migratory fisher* means an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in fishing. If the individual did

not engage in such new employment soon after a qualifying move, the individual may be considered a migratory fisher if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal fishing employment.

(i) *Minimum Data Elements (MDEs)* means the educational and health information for migratory children that the Secretary requires each SEA that receives a grant of MEP funds to collect, maintain, and submit to MSIX, and use under this part. MDEs may include—

(1) Immunization records and other health information;

(2) Academic history (including partial credit), credit accrual, and results from State assessments required under the ESEA;

(3) Other academic information essential to ensuring that migratory children achieve to high academic standards; and

(4) Information regarding eligibility for services under the Individuals with Disabilities Education Act.

(j) *Move or Moved* means a change from one residence to another residence that occurs due to economic necessity.

(k) *MSIX Memorandum of Understanding (MOU)* means the agreement between the Department and an SEA that governs the interconnection of the State migrant student records system(s) and MSIX, including the terms under which the agency will abide by the agreement based upon its review of all relevant technical, security, and administrative issues.

(l) *MSIX Interconnection Security Agreement* means the agreement between the Department and an SEA that specifies the technical and security requirements for establishing, maintaining, and operating the interconnection between the State migrant student records system and MSIX. The MSIX Interconnection Security Agreement supports the MSIX MOU and documents the requirements for connecting the two information technology systems, describes the security controls to be used to protect the systems and data, and contains a topological drawing of the interconnection.

(m) *Personal subsistence* means that the worker and the worker's 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.

(n) *Qualifying work* means temporary employment or seasonal employment in agricultural work or fishing work.

(o) *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.

(p) *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 the employer states that the worker was hired for a limited time frame; the worker states that the worker does not intend to remain in that employment indefinitely; or the SEA has determined on some other reasonable basis that the employment is temporary. The definition includes employment that is constant and available year-round only if, within 18 months after the effective date of this regulation and at least once every three years thereafter, the SEA documents that, given the nature of the work, of those workers whose children were previously determined to be eligible based on the State's prior determination of the temporary nature of such employment (or the children themselves if they are the workers), virtually no workers remained employed by the same employer more than 12 months.

[73 FR 44123, July 29, 2008, as amended at 81 FR 28970, May 10, 2016; 83 FR 42440, Aug. 22, 2018; 84 FR 31676, July 2, 2019]

#### **§ 200.82 Use of program funds for unique program function costs.**

An SEA may use the funds available from its State Migrant Education Program (MEP) to carry out other administrative activities, beyond those allowable under § 200.100(b)(4), that are unique to the MEP, including those that are the same or similar to administrative activities performed by LEAs in the State under subpart A of this