

July 19, 2004

SUBJECT: Categorical Eligibility for Free Lunches and Breakfasts of Runaway, Homeless, and Migrant Youth: Reauthorization 2004 Implementation Memo SP 4

TO: Special Nutrition Programs
All Regions

State Agencies
Child Nutrition Programs
All States

Section 107 of the Child Nutrition and WIC Reauthorization Act of 2004 (Act) amended section 9(b) of the Richard B. Russell National School Lunch Act to make runaway, homeless and migrant children categorically eligible for free meal benefits under the National School Lunch and School Breakfast Programs and is effective July 1, 2004. In addition to establishing free meal eligibility, the Act also establishes a requirement for documenting a child's status as runaway, homeless, or migratory.

Previously, through guidance, the Food and Nutrition Service extended categorical eligibility for free school meals to children considered homeless under the McKinney-Vento Homeless Assistance Act. School officials were allowed to accept statements that children were homeless from the local educational liaison for the homeless or directors of homeless shelters where the children reside. The Act now establishes in law the categorical eligibility of these children for free school meals. Please see the previously issued memoranda of April 6, 1992, *Documentation of Free and Reduce Price Meal Eligibility for Homeless Children* and of April 4, 2002, *Updated Guidance for Homeless Children in the School Nutrition Programs*, on documentation for homeless children under McKinney-Vento.

There were, however, no similar eligibility and documentation provisions for runaway youth or migrant children. At this time, we are in discussions with the Department of Health and Human Services, regarding implementation of that portion of the Act that addresses categorical eligibility for runaway youth served through grant programs established under the Runaway and Homeless Youth Act. We hope to provide guidance in the very near future on how to determine and document if a child is receiving services as a runaway and is therefore categorically eligible for free school meals.

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For migratory children, each State Educational Agency's Migrant Education Program establishes their own process for determining if a child meets the criteria provided under Elementary and Secondary Education Act of 1965. State Child Nutrition Agencies must contact their State Migrant Education Program to develop a plan for sharing and documenting the migratory child's eligibility for free school meals. To find the contact for your State Migrant Education Program view the following website:

- Contact Information for all State Directors of Migrant Education
<http://www.ed.gov/programs/mep/contacts.html>

If you have any questions, please contact Rosemary O'Connell or Mara McElmurray at 703-305-2590.

/S/

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Director
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United States
Department of
Agriculture

August 16, 2004

Food and
Nutrition
Service

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

3101 Park
Center Drive
Alexandria, VA
22302-1500

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.

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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
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Child Nutrition Division