

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Part 201

Funding Under Part C of Title I of the Elementary and Secondary Education Act of 1965 (ESEA); Education of Migratory Children

AGENCY: Department of Education.

ACTION: Notice of final priority.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) establishes an absolute priority for distribution of Migrant Education Program (MEP) funds under section 1308(a) of Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Improving America's Schools Act (IASA) (Pub. L. 103-382). Under this priority the Department will make grant awards, on a one-time basis in fiscal year (FY) 1995, to provide additional resources to State educational agencies (SEAs) in order to assist them in their responsibilities, under the Migrant Education Program (MEP), to ensure the interstate and intrastate transfer of educational and health records of migratory children.

EFFECTIVE DATE: This priority takes effect on July 28, 1995.

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) 260-1934. 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**

The MEP, authorized in Title I, Part C, of the ESEA, is a State-operated, formula grant program under which SEAs receive funds to improve the academic achievement and welfare of migratory children who reside in their States. Under section 1304(b)(3) of the ESEA, SEAs receiving MEP funds have a responsibility to carry out activities that promote the interstate and intrastate coordination of services for migratory children, and to provide for educational continuity through the timely transfer of pertinent school records, including health information, for migratory children.

In the past, the Department assisted SEAs in carrying out their responsibilities regarding the transfer of records on migratory children by contracting, using funds set aside from the overall MEP appropriation, for a national Migrant Student Record Transfer System (MSRTS). However, because the MSRTS is no longer available for records transfer and the contract for its operation will end on June 30, 1995, the SEAs are now in the process of enhancing, and in some cases reexamining, State and local recordkeeping and records transfer capabilities for migratory children. In this regard, the issue of how school records of migratory children can best be transferred after the end of MSRTS has been the subject of considerable discussion among State and local officials over the past year, and many SEAs have identified the enhancement of State and local capacities to maintain and transfer records on migratory children as a critical need that warrants further Federal assistance.

On May 4, 1995, the Department distributed a draft of a priority notice to SEAs that proposed, under the authority of section 1308(a) of the ESEA, to use \$2.2 million in available FY 1994 MEP funds for special, one-time grants to the SEAs for activities that support their records transfer responsibilities. This draft notice proposed to award the \$2.2 million in equal amounts to each SEA receiving MEP formula grant funds, except that no SEA could receive an amount that would exceed 20 percent of its FY 1995 MEP formula grant award. As of June 1, 1995, 49 of the 51 State ME Directors, as well as two other interested parties, commented on the draft priority notice.

Forty-two of the State MEP Directors expressed complete satisfaction with the proposed distribution of funds, while seven of the State MEP Directors and the two other commenters expressed some concerns about the proposal. Three State MEP Directors and the two other commenters suggested that it would be more reasonable to award additional funds for records transfer proportionally on the basis of the size of a State's MEP rather than in equal State amounts. One of the other commenters suggested a two-tiered distribution approach, with some of the funds to be distributed proportionally based on the size of the States' population of migratory children, and the remaining funds to be distributed equally. Two State MEP Directors suggested that some of the funds be reserved for new, national activities to enhance records transfer in the MEP, while a third State MEP Director noted that the Department was

already adequately supporting national activities through the establishment of a Records Exchange Task Force. Two State MEP directors suggested that the funds be clearly reserved to support interstate transfer activities; and one of the other commenters also noted the need to emphasize interstate transfer activities without restricting funds exclusively for this purpose. Finally, one commenter also suggested that SEAs applying for these funds be required to provide more narrative detail than simply an assurance that the funds would be used to support records transfer activities.

In response to the comments, this notice incorporates changes to clarify the priority's intent and encourage the use of funds especially for activities to enhance the interstate transfer of records of migratory children. In addition, the notice expands the formula for distributing funds under this priority, as a result of comments, and also because, after the draft notice was circulated for comments, the Department identified an additional \$0.5 million in funds beyond the \$2.2 million originally proposed for distribution under this priority.

Priority

Under section 1308(a) of the ESEA, the Department has the authority, after consultation with the States, to issue grants or contracts to SEAs, local educational agencies (LEAs), institutions of higher education (IHEs) and other public or private nonprofit entities to improve the interstate and intrastate coordination of those agencies' educational programs for migratory children. Under this authority, the Department is reserving \$2.7 million to be awarded, as an absolute priority in FY 1995, to SEAs for special grants to assist them in their responsibilities to ensure the maintenance and prompt transfer of pertinent educational and health records of migratory children on an interstate and intrastate basis. The Department believes that making these funds available to support SEA-sponsored interstate and intrastate records transfer activities is appropriate in view of the importance of records transfer in the educational continuity of migratory children, and the expressed needs of the SEAs for additional assistance to develop their records transfer capacity. Moreover, under this priority, the \$2.7 million to be awarded will retain its original purpose, since the Department originally had reserved this sum from the FY 1994 MEP appropriation to support the SEAs'