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## **The Federal Migrant Education Program as Amended by the No Child Left Behind Act of 2001**

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Jeffrey J. Kuenzi  
Analyst in Social Legislation  
Domestic Social Policy Division

# The Federal Migrant Education Program as Amended by the No Child Left Behind Act of 2001

## Summary

The Migrant Education Program (MEP) of the Elementary and Secondary Education Act (ESEA) provides financial assistance to state educational agencies to establish and improve programs for children of migratory farmworkers and fishers. The ESEA and MEP were recently reauthorized by H.R. 1, the No Child Left Behind Act of 2001, which was signed into law (P.L. 107-110) by the President on January 8, 2002. This report describes the legislative and funding history of the program — highlighting important changes made since it was established. A section on evaluations of the program is included at the end of the report.

Since 1966, the MEP has sought to help migrant children overcome the many problems associated with multiple moves. These problems include educational disruption, social barriers, limited English proficiency, various health problems, and other factors that keep migrant children from performing well in school. MEP provides grants to state educational agencies to develop or improve education programs for migrant students. Most migrant programs are administered by local educational agencies and operate during the summer as well as in the regular school year.

The MEP has been subject to incremental amendments over the years. The main changes that have occurred concern student eligibility criteria and records transfer. The former change has resulted in expansion of the population served, while the latter has simply attempted to keep track of these elusive students. The funding formula for the MEP has remained largely unchanged over time; however, it received significant modification in the most recent amendments. Appropriations for the MEP have generally increased from year to year. However, after adjusting for inflation, funding has declined an estimated 17.4% between FY1980 and FY2002.

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# The Federal Migrant Education Program as Amended by the No Child Left Behind Act of 2001

## Introduction

The educational challenges posed by the disruptions and interruptions associated with repeated and seasonal migration have long been recognized. Since the 1940s, children of migrant workers in agricultural and other sectors of the economy have received help meeting these challenges. At first this help came from state-sponsored programs and later from the federal government. The Migrant Education Program (MEP) was established as part of the 1966 amendments (P.L. 89-750) to the Elementary and Secondary Education Act (ESEA) to help alleviate the problems faced by this mobile student population.<sup>1</sup>

In its first year of existence (FY1967), the federal MEP had an appropriation of \$9,737,847 and provided grants to 44 states that served approximately 169,910 students. For FY2002, the program was appropriated \$396,000,000 and will award grants to all 50 states, the District of Columbia, and Puerto Rico. A total of 760,000 full-time equivalent (FTE) students were served by the program in FY2001.<sup>2</sup> This report describes the legislative and funding history of the program — highlighting important changes made since it was established. A section on evaluations of the program is included at the end of the report.

## Program Overview

The MEP provides grants to state educational agencies (SEAs) to develop or improve education programs for migrant students. Most migrant programs are administered by local educational agencies (LEAs) and operate during the summer as well as in the regular school year. LEAs typically provide instruction (remedial, compensatory, bilingual, multicultural, and vocational), health services, counseling

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<sup>1</sup>For a general overview of the reauthorized ESEA, see CRS Report RL31284, *K-12 Education: Highlights of the No Child Left Behind Act of 2001 (P.L. 107-110)*, by Wayne Riddle. While services are also provided specifically to migrants by the College Assistance Migrant Program (CAMP), High School Equivalency Program (HEP), Even Start, Head Start, and other programs, the focus of this report is solely on MEP.

Please note that portions of this report were adopted from CRS Report 98-945, *The Federal Migrant Education Program: An Overview*, by Patricia Osorio-O’Dea.

<sup>2</sup>U.S. Department of Education. *Fiscal Year 2003 Justifications of Appropriation Estimates to the Congress*, v. 1, 2002. p. A-45.

and testing, career education, preschool services, and transportation to migrant students. Further details on service provision will be discussed in the program evaluation section of this report.

By law, priority for services is given to current migrant students and especially those who are failing, or at greatest risk of failing, to meet state performance standards. To be eligible for program funding, children must have moved from one school district to another, or from one administrative area to another within a state having a single district; or, if living in a school district of at least 15,000 square miles, the child must travel at least 20 miles from their usual residence for purposes of gaining employment for themselves or their parents/guardians.

## Population Served

According to a recent study, most of the students served in the early years of the program's existence were U.S.-born African Americans or non-Hispanic whites.<sup>3</sup> However, by 1998, 85% of students served were Hispanic (and increasingly foreign-born, although precise figures were not available).

The Department of Education's (ED) *Fiscal Year 2001 Justifications of Appropriation Estimates to the Congress* indicates that, during the 1999-2000 school year, over 40% of migrant students were limited-English proficient (LEP).<sup>4</sup> ED data also reveal that migrant students at this time were more likely than other children of school age to come from families with low levels of education, households with incomes below the poverty level, and to experience health problems, including nutritional diseases and respiratory infections.

An earlier ED study reported that the majority of migrant students receiving services through the MEP were concentrated in five sending states: California, Florida, Michigan, Texas, and Washington.<sup>5</sup> Migrant families typically travel in three patterns of migration, also known as migrant streams. These migrant streams include: 1) Texas and north through the central plains region, 2) California to the northwest and western states, and 3) Florida and north along the East Coast.

## Legislative History

The MEP has been subject to incremental amendments over its 35-year existence. The main changes that have occurred concern student eligibility criteria

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<sup>3</sup>U.S. Department of Education. *Title I Migrant Education State Performance Reports: 1997-1998*. Prepared by Westat, Inc., Rockville, MD. School districts are not required to establish U.S. citizenship or legal residence status for students who are provided services through this program.

<sup>4</sup>U.S. Department of Education. *Fiscal Year 2001 Justifications of Appropriation Estimates to the Congress*, v. 1, 2000. p. B-44.

<sup>5</sup>U.S. Department of Education. *Services to Migrant Children: Synthesis and Program Options for the Title I Migrant Education Program*. Washington 1993.

and records transfer. The former change has resulted in expansion of the population served, while the latter has simply attempted to keep track of these elusive students. The funding formula for the MEP has remained largely unchanged over time; however, it received significant modification in the most recent reauthorization.

## Student Eligibility Criteria

The major revisions to MEP eligibility criteria have been the inclusion of additional migratory worker occupational groups, wider age groups, and broader geographic areas; consideration of migratory students themselves as workers; and restriction of the number of years of eligibility. Initially, the MEP was designed to serve the children of migratory agricultural workers. The children of migratory fishers were added to the program in 1974,<sup>6</sup> and children of agricultural dairy workers were added in 1988.<sup>7</sup>

The amendments of 1988 also expanded the eligible age range from the 5 to 17 group (as defined in the initial legislation) to persons between 3 and 21. The 1966 provisions required that students cross school district boundaries to be classified as migratory. The 1988 amendments expanded this criterion to include: 1) moving from one administrative area to another within a state having a single school district (applicable to Hawaii and Puerto Rico), and 2) living in a school district of at least 15,000 square miles and migrating at least 20 miles to a temporary residence to engage in a fishing activity (applicable to Alaska). Finally, the 1988 amendments established the National Commission on Migrant Education to study issues related to the education of migrant children.<sup>8</sup>

In response to the Commission's report, the amendments of 1994 made two important changes to the MEP.<sup>9</sup> First, the definition of a migratory child was extended to include unaccompanied minors who are themselves migrant workers or who are married to a migrant worker, as well as those under the legal guardianship of a migrant worker. Second, eligibility was restricted to those moving in the last 3 years (where previously it was 5 years).

## Student Records Transfer

To enumerate migrant students and move records between schools, Congress established the Migrant Student Records Transfer System (MSRTS) through the Education Amendments of 1974. Prior to that time, data from the Department of Labor were used to determine the number of eligible migratory children for purposes of calculating state allocations. The 1994 amendments eliminated the use of the MSRTS because of its high cost and alleged ineffectiveness.

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<sup>6</sup>Education Amendments of 1974 (P.L. 93-380).

<sup>7</sup>Hawkins-Stafford Amendments of 1988 (P.L. 100-297).

<sup>8</sup>The results of this study are discussed in detail in the final section of this report. National Commission on Migrant Education. *Invisible Children: A Portrait of Migrant Education in the United States*. Washington 1992.

<sup>9</sup>Improving America's Schools Act of 1994 (P.L. 103-382).

The 1994 amendments also charged the ED with developing a new system for counting and keeping track of migrant students. To this end, the *Migrant School Locator Demonstration Project* was established and pointed to the feasibility of using the Internet to count migrant students and locate student information.<sup>10</sup> Compared to the MSRTS, the locator project simply coordinates operations run at the state level. This decentralized approach does not send actual educational records from one school system to another; rather, it helps SEAs and LEAs verify the correct student and contact information for the school in which the student had been previously enrolled. By the 1997-1998 school year, eight states were participating in the project.

Further, the 1994 amendments provided funds for improving this type of inter- and intra-state coordination among educational agencies and ensuring the linkage of migrant student records systems across agencies. The ED awarded discretionary grants to SEAs, LEAs, institutions of higher education, and other public and private nonprofit entities to support such agency coordination. In the No Child Left Behind Act of 2001 (NCLBA), up to \$10 million can be reserved for these and other coordination activities.<sup>11</sup>

## Funding Formula

The NCLBA also modified the funding formula for the first time in many years. Since the program's inception, the formula has been based on the product of each states' share of migratory students and a fraction of its per-pupil expenditure (PPE).<sup>12</sup> FY2002 appropriations will be allocated to states in much the same manner as in the past; however, in subsequent fiscal years, the formula will be pegged to the FY2002 state distribution. From FY2003 forward, states will receive the same amount they received in FY2002 plus a share of any additional appropriations.

For FY2002, then, each state will be entitled to an amount equal to the number of migrant children multiplied by 40% of the average PPE in the state, with the resulting amount not to be less than 32% and not greater than 48% of average PPE in the U.S.<sup>13</sup> In subsequent fiscal years, appropriations above the FY2002 level will be allocated based on the same formula, but with updated (and slightly modified) enrollment figures.

Specifically, the FY2002 formula uses an adjusted estimate of the number of full-time equivalent (FTE) migratory children residing in the state during the school year

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<sup>10</sup>Migrant Student Locator Demonstration Project. *Report on the Findings from the Migrant/Mobile School Locator Demonstration Project*, April 1998. Available on-line: [<http://www.ed.gov/offices/OESE/MEP/PrelimGuide/locator.html>].

<sup>11</sup>Additionally, the NCLBA requires that SEA report cards on pupil performance be disaggregated by a number of student characteristics, including migrant status.

<sup>12</sup>Although the definition of a "migratory student" (as was discussed earlier) and the fraction of the PPE has evolved over time, the basic formula has remained the same.

<sup>13</sup>The PPE used in the case of Puerto Rico differs slightly.

as well as during the summer and inter-session.<sup>14</sup> Thereafter, the formula for distributing appropriations over the FY2002 level uses an *unadjusted* count of the number of migratory children residing in the state during the previous year plus the number receiving services under the MEP in summer or inter-session during the previous year.

Estimates of migratory student enrollment have always been difficult to obtain. Thus, even though the MSRTS was eliminated in 1994, current counts of migratory students partially rely on that year's MSRTS enrollment estimates. The NCLBA amendments are intended to end this practice after the FY2002 allocations. The hold harmless language is meant to mitigate any drastic redistribution that may occur as a result.

If funding is insufficient to pay in full the amounts for which all states are eligible, the Secretary may ratably reduce the amount allocated to each state. In the case of states receiving grants of \$1,000,000 or less, the Secretary will consult with the state agency to determine if a consortium arrangement would be most beneficial to service delivery.<sup>15</sup>

## Funding History

**Table 1** shows the funding history for MEP since FY1980. These figures indicate that funding for MEP has generally and incrementally increased from year to year. However, after adjusting for inflation, the funding for MEP has actually declined an estimated 17.4% from \$479,293,500 in FY1980 (expressed in FY2002 dollars) to \$396,000,000 in FY2002.<sup>16</sup>

The distribution of MEP appropriations among the states has remained quite stable over time. Three states — California, Texas, and Florida — have traditionally received the majority of the funds available for state distribution. In FY1980, Texas received 27% of these funds, followed by California at 22% and Florida at 8%. California received 31% of the FY2001 funds, followed by Texas at 14% and Florida at 7%.<sup>17</sup>

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<sup>14</sup>These FTE estimates are based in part on “[s]tate-specific factors [that] were developed from calendar year 1994 MSRTS data, and represent each State’s reported FTEs as a fractional proportion of the unique count of those children who generated FTEs.” Memorandum from ED, Director of the Office of Migrant Education to state directors of migrant education.

<sup>15</sup>ED was also directed to develop a funding mechanism that accurately reflects the cost factors involved in conducting different types of summer programs, such as school-based versus home-based programs. The focus on summer programs is due to the wide variation in the cost of these programs compared to school-year programs.

<sup>16</sup>A GDP deflator was used to adjust the 1980 figure to FY2002 constant dollars.

<sup>17</sup>The data source used for these state grant figures were taken from tables released by the Budget Office of the Department of Education.

**Table 1. ESEA Title I Migrant Education Program  
Appropriations, FY1980-FY2002**

<b>Fiscal year</b>	<b>Appropriation</b>	<b>Percentage change (year to year)</b>
1980	\$245,000,000	—
1981	\$266,400,000	8.73
1982	\$255,744,000	-4.00
1983	\$255,744,000	0.00
1984	\$258,024,000	0.89
1985	\$264,524,000	2.52
1986	\$253,149,000	-4.30
1987	\$264,524,000	4.49
1988	\$269,029,000	1.70
1989	\$271,700,000	0.99
1990	\$282,444,000	3.95
1991	\$294,592,000	4.30
1992	\$308,298,000	4.65
1993	\$300,038,000	-2.68
1994	\$302,458,000	0.81
1995	\$305,475,000	1.00
1996	\$305,474,000	0.00
1997	\$305,473,000	0.00
1998	\$305,473,000	0.00
1999	\$354,689,000	16.11
2000	\$354,689,000	0.00
2001	\$380,000,000	7.14
2002	\$396,000,000	4.21

**Source:** U.S. Department of Education.

## Program Evaluations

### National Commission on Migrant Education

Congress ordered a major evaluation of the MEP through the ESEA amendments of 1988.<sup>18</sup> This law established the National Commission on Migrant Education to study issues related to the education of migrant children. The Commission released its report in September 1992.<sup>19</sup>

The highlights of the report focus on the changing population served by the program, the difficulties faced by this population, indicators of their academic achievement, and suggestions for improving the program. According to the study, the migrant population has changed from predominantly U.S.-born children of agricultural workers following crops, to a predominantly immigrant population whose parents are or have recently been employed in agricultural work. Increasing numbers of new farmworkers are young immigrant males, many of whom are unaccompanied minors.

Poverty, lack of English proficiency, parents and other family members with low educational attainment, and isolation from the larger community all contribute to difficulties migrant children face in integrating into the social mainstream and obtaining comparable educational opportunities. As a consequence of these challenges, the dropout rate for students in the MEP is estimated to be several times higher than the national average.

The Commission's report concluded that while the MEP has changed and expanded in scope since 1966, the students served by this program are often overlooked. And further, the program has been significantly underfunded: the Commission noted that appropriations in 1991 were only 33% of full funding of the formula in the legislation.

### Post-Commission Evaluations

On the heels of the Commission report, Westat, Inc., under contract with the ED, released a report which provided a breakdown of MEP participation, services, and student achievement data for 1992-1993.<sup>20</sup> A more recent Westat report was released that focused on summer-term projects and produced similar results.

MEP participants were more likely to receive instructional services in reading (96%) and math (87%) than in other instructional services such as science (57%) and social science (48%). A substantial proportion received bilingual instruction (69%) as well as a variety of non-instructional services including social work and outreach (84%), transportation (78%), and meals (68%).

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<sup>18</sup>Hawkins-Stafford Amendments of 1988 (P.L. 100-297).

<sup>19</sup>National Commission on Migrant Education. *Invisible Children: A Portrait of Migrant Education in the United States*. Washington 1992.

<sup>20</sup>*State Chapter 1 Migrant Participation and Achievement Information, 1992-1993*. Prepared for the U.S. Department of Education by Westat, Inc. Rockville, MD, 1993.

Performance data for students was gathered using various standardized, norm-referenced tests.<sup>21</sup> Generally, migrant students performed better in math than in reading. However, the results indicate that migrant students were not faring well in basic math and reading. With one exception, the results show that average scores for students in each grade were below the 50<sup>th</sup> percentile.

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<sup>21</sup>For more information on these tests see Harcourt Educational Measurement on-line at [<http://www.hbem.com>].