

§ 200.28

34 CFR Ch. II (7-1-02 Edition)

(a) Provide services comparable to those provided to children in participating school attendance areas and schools to serve—

(1) Children in local institutions for neglected children; and

(2) Where appropriate—

(i) Eligible homeless children who do not attend participating schools, including providing educationally related support services to children in shelters;

(ii) Children in local institutions for delinquent children; and

(iii) Neglected and delinquent children in community-day school programs;

(b) Meet the requirements for parental involvement in section 1118(a)(3) of the Act;

(c) Administer programs for public and private school children under this part, including special capital expenses not paid for from funds provided under §200.16 that are incurred as a result of implementing alternative delivery systems to comply with the requirements of *Aguilar v. Felton*; and

(d) Conduct other authorized activities such as professional development, school improvement, and coordinated services.

(Authority: 20 U.S.C. 6313(c)(3), 6317(c), 6319(a)(3), 6320)

§ 200.28 Allocation of funds to school attendance areas and schools.

(a)(1) An LEA shall allocate funds under this subpart to school attendance areas or schools, identified as eligible and selected to participate under section 1113(a) or (b) of the Act, in rank order on the basis of the total number of children from low-income families in each area or school.

(2)(i) In calculating the total number of children from low-income families, the LEA shall include children from low-income families who attend private schools, using—

(A) The same poverty data, if available, as the LEA uses to count public school children; or

(B) If the same data are not available, comparable data—

(1) Collected through alternative means such as a survey; or

(2) From existing sources such as AFDC or tuition scholarship programs.

(ii) If complete actual poverty data are not available on private school children, an LEA may extrapolate from actual data on a representative sample of private school children the number of children from low-income families who attend private schools.

(3) If an LEA ranks its school attendance areas or schools below 75 percent poverty by grade span groupings, the LEA may determine the percentage of children from low-income families in the LEA as a whole for each grade span grouping.

(b)(1) Except as provided in paragraphs (b)(2) and (d) of this section, an LEA shall allocate to each participating school attendance area or school an amount for each low-income child that is at least 125 percent of the per-pupil amount of funds the LEA received for that year under subpart 2 of part A of title I. The LEA shall calculate this per-pupil amount before the LEA reserves any funds under §200.27, using the poverty measure selected by the LEA under section 1113(a)(5) of the Act.

(2) If an LEA is serving only school attendance areas or schools in which the percentage of children from low-income families is 35 percent or more, the LEA is not required to allocate a per-pupil amount of at least 125 percent.

(c) An LEA is not required to allocate the same per-pupil amount to each participating school attendance area or school provided the LEA allocates higher per-pupil amounts to areas or schools with higher concentrations of poverty than to areas or schools with lower concentrations of poverty.

(d) An LEA may reduce the amount of funds allocated under this section to a school attendance area or school if the area or school is spending supplemental State or local funds for programs that meet the requirements in §200.62(c).

(e) If an LEA contains two or more counties in their entirety, the LEA shall distribute to schools within each county a share of the LEA's total grant that is no less than the county's share

of the child count used to calculate the LEA's grant.

(Authority: 20 U.S.C. 6313(c), 6333(c)(2))

[60 FR 34802, July 3, 1995, as amended at 63 FR 54997, Oct. 13, 1998]

§ 200.29 [Reserved]

Subpart B—Even Start Family Literacy Program

§ 200.30 Migrant Education Even Start Program definition.

Eligible participants under the Migrant Education Even Start Program (MEES) are those who meet the definitions of a migratory child, a migratory agricultural worker or a migratory fisher in § 200.40.

(Authority: 20 U.S.C. 6362, 6511)

§§ 200.31–200.39 [Reserved]

Subpart C—Migrant Education Program

§ 200.40 Program definitions.

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

(a) *Agricultural activity* means—

(1) Any activity directly related to the production or processing of crops, dairy products, poultry or livestock for initial commercial sale or personal subsistence;

(2) Any activity directly related to the cultivation or harvesting of trees; or

(3) Any activity directly related to fish farms.

(b) *Fishing activity* means any activity directly related to the catching or processing of fish or shellfish for initial commercial sale or personal subsistence.

(c) *Migratory agricultural worker* means a person who, in the preceding 36 months, has moved from one school district to another, or from one administrative area to another within a State that is comprised of a single school district, in order to obtain temporary or seasonal employment in agricultural activities (including dairy work) as a principal means of livelihood.

(d) *Migratory child* means a child who is, or whose parent, spouse, or guardian is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent, spouse, guardian in order to obtain, temporary or seasonal employment in agricultural or fishing work—

(1) Has moved from one school district to another;

(2) In a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

(3) Resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

(e) *Migratory fisher* means a person who, in the preceding 36 months, has moved from one school district to another, or from one administrative area to another within a State that is comprised of a single school district, in order to obtain temporary or seasonal employment in fishing activities as a principal means of livelihood. This definition also includes a person who, in the preceding 36 months, resided in a school district of more than 15,000 square miles, and moved a distance of 20 miles or more to a temporary residence to engage in a fishing activity as a principal means of livelihood.

(f) *Principal means of livelihood* means that temporary or seasonal agricultural or fishing activity plays an important part in providing a living for the worker and his or her family.

(Authority: 20 U.S.C. 6391–6399, 6511)

§ 200.41 Use of program funds for unique program function costs.

An SEA may use the funds available from its State Migrant Education Program to carry out other administrative activities, beyond those allowable under § 200.61, that are unique to the MEP, including those that are the same or similar to those performed by LEAs in the State under subpart A. These activities include but are not limited to—

(a) Statewide identification and recruitment of eligible migratory children;