# 2021–22 Legal Assurances and Certifications for Local Educational Agencies

California Department of Education

Migrant Education Program

The operating agency, by signature of its authorized representative on the **signature** page of this document, hereby assures the California Department of Education (CDE) that the local educational agency (LEA) will adhere to all of the legal assurances contained herein and with all other Federal and State statutory and regulatory requirements for the Migrant Education Program (MEP) referenced in this document.

## **Required Assurances**

General assurances and certifications are required for grant applications submitted to the CDE. The General Assurances and Drug-Free Workplace Certification forms are required for applications for funds. (Note that the signed grant application submitted to the CDE confirms a commitment to comply with the general assurances.) Applicants must download the certifications and submit the signed forms with their applications as described below:

* General Assurances form: <https://www.cde.ca.gov/fg/fo/fm/generalassurances2020.asp> (no signature required)
* Family Biliteracy Program Assurances and Requirements form: <https://www.cde.ca.gov/fg/fo/r28/fbpassurances.docx> (signature required if applicable)

## **Migrant Assurances**

### Use of Funds

1. Funds for the MEP will be used only:
   1. For programs and projects, including the acquisition of equipment in accordance with 20 United States Code (USC) sections 6396(b) and 6394[c][1][A].
   2. To coordinate such programs and projects within the State and other states, as well as with Federal programs that can benefit migratory children and their families (20 USC 6394[c][1][B]].
2. Programs and projects funded for the MEP will be carried out in a manner consistent with the objectives of Section 6314, subsections (b) and (d) of Section 6315 and subsections (b) and (c) of Section 6321 of 20 USC, and Part F of 20 USC, Chapter 70, Subchapter 1. (20 USC 6394 [c][2]).

### Program Purpose

1. Use of the MEP funds:
   1. Support high-quality and comprehensive educational programs and services during the school year and, as applicable, during summer or intersession periods that address the unique educational needs of migratory children.
   2. Ensure that migratory children who move among the States are not penalized in any manner by disparities among the States in curriculum, graduation requirements, and challenging State academic standards.
   3. To ensure that migratory children receive full and appropriate opportunities to meet the same challenging State academic standards that all children are expected to meet.
   4. To help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to succeed in school.
   5. To help migratory children benefit from State and local systemic reforms.

### Authorized Activities

1. MEP funds shall be used, first, to meet the identified needs of migratory children that:
   1. Result from the effects of their migratory lifestyle, or are needed to permit migratory children to participate effectively in school.
   2. Are not addressed by services available from other federal or nonfederal programs.
2. Migratory children who are eligible to receive services pursuant to Improving Basic Programs Operated by LEAs, 20 USC 6311 may receive those services through MEP funds that remain after the agency addresses the identified needs described in point 4, above.
3. A school that receives MEP funds shall continue to address the identified needs described in point 4, above, notwithstanding its participation in schoolwide programs under 20 USC 6314. (20 USC 6396[b][4])

### Program Planning, Operation, and Evaluation

1. The LEA will ensure that:
   1. In the planning and operation of programs and projects, there is appropriate consultation with parents of migratory children, including parent advisory councils (PACs), for programs of at least one school year in duration.
   2. All such programs and projects are carried out in a manner that provides for the same parental involvement as is required for programs and projects under 20 USC 6318.
   3. Programs and projects are carried out in a format and language understandable to the parents. (20 USC 6394[c][3][B]).
   4. The LEA will make available to the MEP all student academic assessment, immunization, and other health information data for the purpose related to student assessment, program services planning, and the transfer of student records. (20 USC Section 6398[b][2]).
   5. The transfer of school records without parental consent is permitted if the LEA transfers the records to other school officials within the agency (whom the agency has determined to have legitimate educational interest) or to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll (See 34 Code of Federal Regulations [CFR] 99.31). This exception applies only if the LEA notifies parents annually of this policy (34 CFR 99.34). In addition, the notification of this exception is recorded via parent/guardian signature on the Certificate of Eligibility form.
   6. The availability of funds from other federal, state, and local programs must be taken into account. (20 USC 6394(b)[5]).
2. In planning and carrying out such programs and projects, there will be adequate provision for addressing the unmet educational needs of preschool migratory children and migratory children who have dropped out of school. (20 USC 6394[c][4]).
3. The effectiveness of such programs and projects will be determined, where feasible, using the same approaches and standards that will be used to assess the performance of students, schools, and LEAs under Improving Basic Programs Operated by LEAs, 20 USC 6311 et seq. (20 USC 6394[c][5]).
4. Such programs and projects will provide for:
   1. Advocacy and outreach activities for migratory children and their families, including informing such children and families of, or helping such children and their families gain access to, other education, health, nutrition and social services,
   2. Professional development programs, including mentoring, for teachers and other program personnel,
   3. Family literacy programs,
   4. The integration of information technology into educational and related programs, and
   5. Programs that facilitate the transition of secondary school students to postsecondary education or employment. (20 USC 6394[c][7]).
5. It will assist the State Education Agency (SEA) in identifying, and recruiting eligible children, including the identification and recruitment of preschool migratory children and migratory children who have dropped out of school, and will provide its local Migrant Education Region and the SEA with eligibility and needs assessment information, by which the SEA can complete its reporting and subgranting activities. The LEA will implement a program to monitor the eligibility requirements of children and youths enrolled in the MEP (California *Education Code* (*EC*) Section 54444.1 [d]) and will establish and implement a system of quality controls for the proper identification and recruitment of eligible migratory children (34 *Code of Federal Regulations (CFR)* 200.89[c]).

### Priority for Services

1. LEAs shall give priority to migratory children who are failing, or most at risk of failing, to meet the State’s challenging academic standards, or have dropped out of school (20 USC 6394[d]).

### Continuation of Services

1. Notwithstanding any other provision of Title I, Part C,
   1. A child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term,
   2. A child who is no longer a migratory child may continue to receive services for one additional school year, but only if comparable services are not available through other programs, and
   3. Secondary school students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation (20 USC 6394[e]).

### Schoolwide Programs

1. Before the school chooses to consolidate its Schoolwide program funds received under part C of Title I of the Elementary and Secondary Education Act, the school must:
   1. Use these funds, in consultation with parents of migratory children or organizations representing those parents, or both, first to meet the unique educational needs of migratory students that result from the effects of their migratory lifestyle, and those other needs that are necessary to permit these students to participate effectively in school, as identified through the comprehensive Statewide needs assessment under 34 CFR 200.83, and
   2. Document that these needs have been met. (34 CFR 200.29[c][1]).
2. Funds available under Part C of Title 20 may be used in a Schoolwide program subject to the requirements of 34 CFR 200.29[c][1].

### Coordination of Migrant Activities

1. The LEA will coordinate with the SEA to improve intrastate coordination, including the development or improvement of programs for credit accrual and exchange (20 USC 6398[a][1]).

### Unique MEP Functions

1. LEAs are to assist in the conduct of any and all of the following activities as deemed necessary by the State:
   1. Statewide identification and recruitment of eligible migratory children,
   2. Interstate and intrastate coordination of the State MEP and its local projects with other relevant programs and local projects in the State and in other States,
   3. Procedures for providing educational continuity for migratory children through the timely transfer of educational and health records, beyond that required generally by State and local agencies,
   4. Collecting and using information for accurate distribution of subgrant funds,
   5. Development of a statewide needs assessment and a comprehensive State plan for MEP service delivery,
   6. Supervision of instructional and support staff,
   7. Establishment and implementation of a State Parent Advisory Council (SPAC), and
   8. Conducting an evaluation of the effectiveness of the State MEP. (34 CFR 200.82).

### MEP Assessment and Evaluation

1. The LEA shall determine the effectiveness of its program and projects in providing migratory children with the opportunity to meet the same challenging State academic standards (20 USC 6394 and 34 CFR 200.83[a]).
2. Evaluations of program and project effectiveness shall, wherever feasible, use the same approaches and standards that the State establishes for use to assess the performance of students, schools, and local educational agencies under Title I, Part A. (20 USC 6394).
3. In a project where it is not feasible to use the same student assessments that are being used under Title I, Part A, the operating agency must carry out some other reasonable process or processes for examining the effectiveness of the project (20 USC 6394 generally, and 34 CFR 200.84).
4. Operating agencies shall use the results of the assessments carried out under 34 CFR Section 200.84 to improve the services provided to migratory children (20 USC 6396 generally).

### Migratory Children in Private Schools

1. Operating agencies must conduct Migrant programs and projects in a manner consistent with the basic requirements of section 8501 of the ESSA. (2 CFR 200.87). Operating agencies should note the changes to those requirements enacted through the Every Student Succeeds Act (ESSA).

### Audits and Fiscal Procedures/Cash Management

23. Operating agencies agree to maintain fiscal and programmatic records and use fiscal control and operating procedures in accordance with state and federal laws and regulations including those found in Section 435 (b)(2) and (5) of General Education Provisions Act (GEPA) and 2 CFR 200.302, 200.327, 200.328.

1. Operating agencies agree to comply with the audit requirements of 34 CFR 76.910 and the cost principles in Subpart E of 2 CFR Part 200 and the audit requirements in Subpart F of 2 CFR Part 200. As required in 2 CFR 200.305, LEA’s must demonstrate the ability to minimize the time elapsing between the receipt and disbursement of migrant funds (Cash Management). LEA’s must promptly pay the federal agency any interest greater than $500 per year that they earned on the cash advances. LEA’s must minimize the time between the receipt and disbursement of the federal migrant funds (2 CFR 200.305[b]).
2. Operating agencies agree to repay the CDE any amounts of Title I funds determined to be expended for non-approvable purposes or in violation of federal or state laws and regulations in accordance with GEPA procedures in 20 USC 1231b-2 (2 CFR 200.338).
3. Operating agencies agree to cooperate with the Inspector General and his/her representatives in the conduct of audits authorized by the Inspector General Act of 1978. Cooperation shall include providing access to records and personnel for the purpose of obtaining clarifications, explanations, and other related information (2 CFR 200.333-337, and 200.344).
4. Operating agencies agree to expend MEP funds solely on the basis of activities and functions described in regional applications and district service agreements approved by the CDE.
5. Operating agencies agree to keep fiscal records and make fiscal accounting reports for the MEP using forms and procedures developed by the CDE.

### Comparability

1. LEAs may receive funds under Title I Comparability, 20 USC 6321(c), only if State and local funds will be used in participating schools to provide services that, taken as a whole, are at least comparable to services that the LEA is providing in schools not receiving Title I, Part A or MEP funds. A LEA may determine comparability on a school-by-school basis or on a grade span by grade span basis. The LEA must file with the CDE a written assurance that it has established and implemented:
   1. An LEA-wide salary schedule,
   2. A policy to ensure equivalence among schools in teachers, administrators, and other staff, and
   3. A policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies (20 U.S.C. 6321[c]).
2. The comparability requirements do not apply to an LEA that has only one school for each grade span (20 U.S.C. 6321[c][4]).
3. The LEA has developed procedures for complying with comparability requirements and must maintain records that are updated biennially documenting compliance with those requirements (20 U.S.C. Section 6321[c][3]).
4. The LEA’s failure to comply with the requirements may result in the loss of Title I funds and/or Migrant Education funds.

## **Migrant State Assurances**

### Operation of Regional Offices

1. The regional offices of the MEP agree to render services and/or reimburse school districts for services approved in district service agreements (DSAs) in accordance with state and federal laws and administrative directives from the U.S. Department of Education (USDOE) and the CDE (*EC* 54444 and 54444.1).
2. Each regional office is responsible for, but not limited to, the provision of the following services:
   1. Funding to districts operating under service agreements.
   2. Technical assistance to districts operating under service agreements.
   3. Interagency coordination to improve services available to eligible migratory children and their families.
   4. Training for the parents and members of district, regional, and school PACs.
   5. Professional development services for migrant education staff at the school and district levels.
   6. Direct services to migratory children and their families pursuant to DSAs (*EC* 54444.4[c]).

### Sub Grantee

1. It is agreed that “Operating agency” means a LEA operating under a sub grant of state migrant education funding pursuant to a special arrangement with the department to directly implement the State’s MEP or projects (a regional office is a LEA to which the SEA makes a sub grant under this part.) (*EC* 54441[e] and 20 USC 6399[1]).
2. The operating agency will review and recommend, in coordination with the SEA, the approval of the DSAs. The operating agency’s review process will be in accordance with SEA procedures to identify and address the unique needs of migratory children and their families (*EC* sections54444 [a] and 54444.1[a][d][e]).
3. The SEA will review and recommend approval of the operating agency Regional (Direct Funded) Application. The operating agency’s review process will be in accordance with SEA procedures (*EC* 54444.1[a][d][e]).

### Service Priorities

1. LEAs agree to establish service priorities for migratory children as established in state and federal laws, (*EC* sections 54444 and 54444.1), and the MEP State Service Delivery Plan.

### Summer School Services

1. Operating agencies agree to conduct summer school programs for eligible migratory students according to the provisions contained in this chapter (*EC* 54444.3[a]).

### Articulation and Coordination

1. Operating agencies agree to operate programs and services for migratory children and their families, which are articulated and coordinated with existing resources from school districts and other state and federal programs (*EC* 54443.1[c][10]).
2. Operating agencies will solicit and make provisions for the active participation of the parents and guardians of eligible migratory students, including but not limited to, review and comment on the annual program application by the members of the appropriate advisory councils (*EC* 54444.2).

### Staff Development and Support

1. Operating agencies agree to provide adequate professional support to staff serving migratory children and their families. Support must include, but is not limited to, training opportunities, materials, counseling, program review, and leadership (*EC* 54444.4[b][3]).
2. Operating agencies agree to develop and submit to the CDE, professional development plans which address the needs of staff that serve migratory children and their families (*EC* 54444.1[e]).

### Parent Advisory Councils (PACs)

1. Operating agencies agree to establish and operate PACs in accordance with federal and state laws and regulations, such that:
   1. The membership of each regional parent advisory council shall be comprised of members who are knowledgeable of the needs of migratory children.
   2. Membership shall be elected by the parents of migratory children currently enrolled in the operating agencies programs.
   3. The composition of the council shall be determined by the migratory parents at a general meeting to which all parents of migratory children currently enrolled in the program shall be invited.
   4. Parents shall be informed, in a language they understand, that the parents have the sole authority to decide on the composition of the council.
   5. All parent candidates for the council shall be nominated by migratory parents.
   6. All community candidates shall be nominated by the migratory parents.
   7. All non-parent candidates shall be nominated by the groups they represent (i.e., teachers by teachers, administrators by administrators, other school personnel by other school personnel, and pupils by pupils).
   8. Each PAC shall hold meetings on a regular basis during the operation of the regular program, but not less than six times during the year.
   9. At least two-thirds of the members of each PAC shall be the parents of migratory children (*EC* 54444.1[d] and 54444.2).
   10. All requirement are to be met for the SPAC (<https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I25E9E890361F11E48B6DDE722E969B97&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)&bhcp=1>).
2. All other responsibilities required under other state and federal laws and regulations (*EC* 54444.1 and 54444.4) 20 USC 6394[c][3]).

### Direct Funded Districts

1. A biennial vote (every other year) by the PAC of a directly funded district, to approve the participation of that district in the directly funded program, including the approval of a majority of the members who are the parents of migratory children (*EC* 54444.1[c]).
2. Operating agencies agree to provide each member of an appropriate advisory council, upon request, with a copy of all applicable state and federal laws, regulations, guidelines, audit reports, monitoring reports, and evaluation reports (*EC* 54444.2[a][3]).
3. Operating agencies agree to offer training programs to members of appropriate advisory councils to enable them to carry out their responsibilities. Training programs shall be developed in consultation with the members and include as appropriate, materials and sessions in a language understandable to each member (*EC* 54444.2[a][4] and 54444.4[c][4]).
4. Operating agencies agree to provide information regarding the MEP to parents and guardians of migratory children (*EC* 5444.4 [b][2]).

### Evaluation Reports

1. Operating agencies agree to submit evaluation reports, including information on pupil progress, overall program effectiveness, and quality control as required by state and federal laws and USDOE (*EC* 54443.1[g]).

### Fiscal Procedures

1. Operating agencies agree to adhere to fiscal procedures and submit fiscal reports as required by the CDE (*EC* 54444.1[A][5]).

Name of Applicant: [enter name of applicant]

Region/District: [enter name of region or district]

Printed Name of Authorized Representative: [enter name of authorized representative]

Signature: [enter signature]

Date: [enter date signed]