



RECRUITING 101

Lesson 3:
The Migratory
Agricultural Worker

PURPOSE:

The migratory agricultural worker is a critical part of identifying student eligibility. Recruiters must be able to conduct eligibility interviews and determine if there is a migratory agricultural worker in a wide variety of situations. This module looks at the regulations governing what is a migratory agricultural worker and tips for the interview process.





WHAT IS A MIGRATORY AGRICULTURAL WORKER?

A Migratory Agricultural Worker is anyone who in the **past 36 months** made a qualifying move, and within **60 days** of the move **engaged** in **NEW** qualifying work that is **seasonal** or **temporary** work in **agriculture or fishing**.

Source: Non-Regulatory Guidance Ch. II QC1 pg 15

WHAT IS A MIGRATORY AGRICULTURAL WORKER?

Or the person made a qualifying move, actively sought new qualifying work but did not engage, and has a recent history of moves for **seasonal** or **temporary** agricultural employment.

Source: Non-Regulatory Guidance Ch. II QC1 pg 15



WHY ARE MIGRATORY AGRICULTURAL WORKERS IMPORTANT?

Determining if there is a migratory agricultural workers are an important part of determining student eligibility.

A student cannot be deemed eligible without making a move with, to join, or to precede a migratory agricultural worker.



IDENTIFYING MIGRATORY AGRICULTURAL WORKERS

To determine if someone is a migratory agricultural worker, a recruiter must conduct a thorough interview with the potential worker to determine their move and work history.

A recruiter may have to ask multiple times and ask follow up questions to get the complete work history.



TIP FROM A RECRUITER!

When interviewing a potential migratory agricultural worker be sensitive to their family's needs, cultures, and language differences. Always wear appropriate attire and identification to help the parent/worker be more at ease.

- Recruiter from Idaho



IDENTIFYING MIGRATORY AGRICULTURAL WORKERS - INTERVIEW TIPS

A recruiter should always be **as thorough as possible** in their questioning to ensure they are not missing any important information.

Recruiters should always review work history going back for **up to 3 years** to guarantee that no qualifying work has been done.



TIP FROM A RECRUITER!

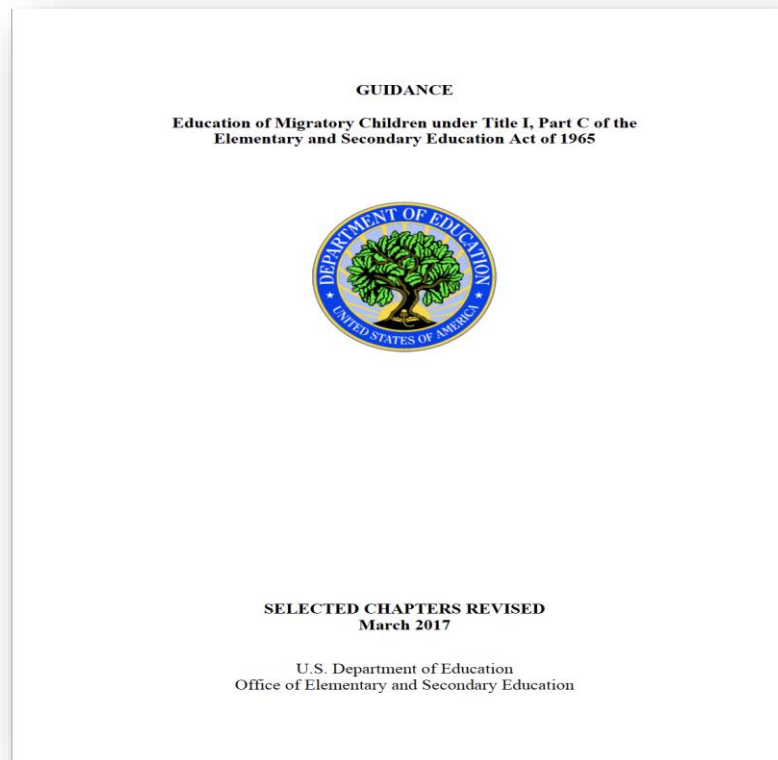
Agricultural workers work very long hours many times 7 days a week. Sometimes the best day to contact them may be a day that the weather is bad, possible raining. Chances are they will be home. Making sure that they know we value their time.

- Recruiter from Idaho



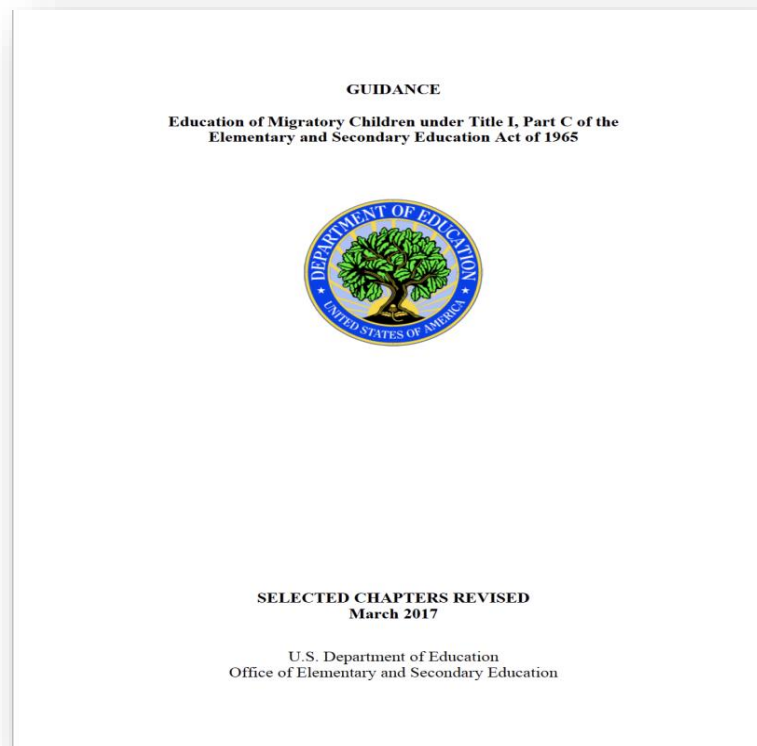
MIGRATORY AGRICULTURAL WORKER - REGULATIONS

The regulations governing who is a migratory agricultural worker are found in Chapter II Section C (pages 15-20) of the Non-Regulatory Guidance.



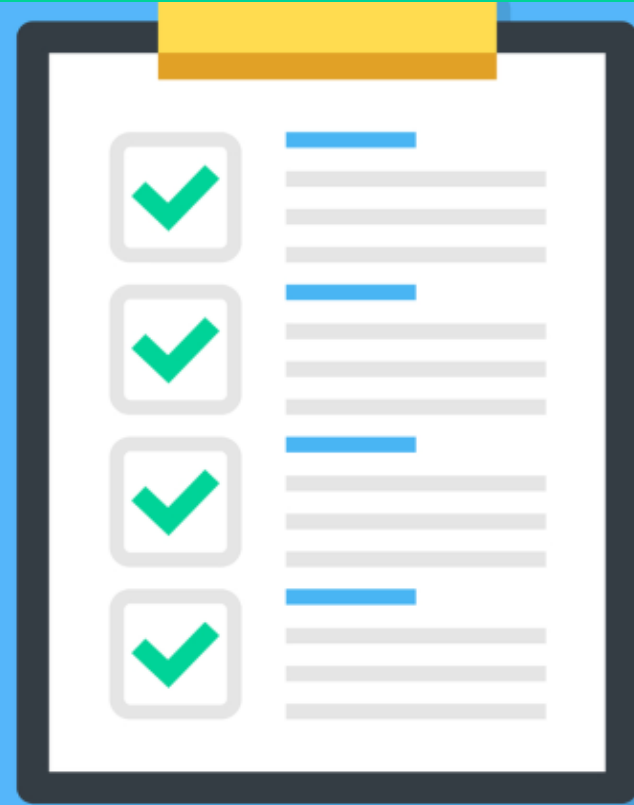
MIGRATORY AGRICULTURAL WORKER - REGULATIONS

Best Practices: Recruiters should review the Non-regulatory Guidance at least once a month to refresh themselves on the regulations. One of the most important tools a recruiter has is their knowledge of the eligibility guidelines.



WHO CAN BE A MIGRATORY AGRICULTURAL WORKER

- The child's mother or father
- The child's guardian
 - The guardian does not have to be the legal guardian. They only need to be responsible for the child.
 - A guardian can be a relative or sibling,
- The child's spouse
- The child can be a migratory agricultural worker



QUALIFYING WORK

Qualifying Work is the shorthand term to mean any work that meets the requirements listed in the Non-Regulatory Guidance to be considered temporary employment, seasonal employment, or work for personal subsistence in agriculture or fishing.

Source: Non-Regulatory Guidance Ch. II QC3 pg 15



QUALIFYING WORK - ENGAGING

To be considered a migratory agricultural worker, a person must ENGAGE in NEW qualifying work "soon after" making a qualifying move.

Source: Non-Regulatory Guidance Ch. II QC1 pg 15





QUALIFYING WORK - ENGAGING

A worker is considered to have engaged in work when they have physically performed the work. Being hired for a job or signing a contract is not considered to be engaging in the work.

Source: Non-Regulatory Guidance Ch. II QC1 pg 15

QUALIFYING WORK - NEW WORK

To be considered a migratory agricultural worker, the work performed must be NEW work. If the person moves and continues their employment at the same location the work is not considered to be new.

Source: Non-Regulatory Guidance Ch. I QC3 pg 15



QUALIFYING WORK - SOON AFTER THE MOVE



According to the Non-regulatory guidance, the migratory agricultural worker must engage in the qualifying work "soon after the move."

The guidance states that soon after the move means the worker engaged in the work **WITHIN 60** days from the date of qualifying move*.

Source: Non-Regulatory Guidance Ch. I QC5 pg 16

QUALIFYING WORK - SEASONAL WORK

Seasonal Work is any agricultural or fishing work that occurs only during a certain period of the year because of the cycles of nature and that, by its nature, may not be continuous or carried on throughout the year.

Source: Non-Regulatory Guidance Ch. II QC3 pg 15



QUALIFYING WORK - EXAMPLES OF SEASONAL

Planting tomatoes	Freezing strawberries
Picking apples	Transplanting trees
Sorting pumpkins	Harvesting lettuce
Staking tomatoes	Pruning grape vines
Cleaning fields	Packing blueberries

QUALIFYING WORK - TEMPORARY WORK

Temporary work is any agricultural or fishing work that can be conducted year-round or any series of jobs for a single employer that lasts longer than 12 months.

Source: Non-Regulatory Guidance
Ch. II QG6 pg 30



QUALIFYING WORK - EXAMPLES OF TEMPORARY WORK

Feeding chickens	Sorting eggs
Milking cows	Sorting oysters
Mending hog pens	Birthing calves
Slaughtering cattle	Defeathering chickens
Milking goats	Harvesting mushrooms (a year round crop)

TIP FROM A RECRUITER!



Get to know the employers in your area that hire agricultural workers. Take tours of their facilities if possible. You will gain knowledge on the production of their products and have a better understanding of what work the workers are performing.

- Recruiter from Idaho

WORKBOOK - ACTIVITY!

Know the Agriculture Around You!

It is important for recruiters to know about the types of agricultural work in their area. Go to activity in Recruiting 101: Lesson 3 in the workbook. Use google and the tools listed to conduct your own research to create a list of types of agriculture and agribusinesses in your area.

MIGRATORY AGRICULTURAL WORKER - NOT ENGAGING

A person who did not engage in qualifying work may still be considered a migratory agricultural worker if they actively sought qualifying work **AND** has a recent history of moves that resulted in temporary or seasonal agricultural employment.

Source: Non-Regulatory Guidance Ch. II QG6 pg 30



MIGRATORY AGRICULTURAL WORKER - ACTIVELY SOUGHT

Actively Sought - A person is considered to have actively sought when they have taken positive actions to seek qualifying work "soon after the move."

A person may look for qualifying work before or after the qualifying move.



MIGRATORY AGRICULTURAL WORKER - ACTIVELY SOUGHT

Examples of having actively sought qualifying work:

- Applied for a job that is qualifying work
- Applied at a center that coordinates available temporary or seasonal employment
- Moved having reasonably believed qualifying work would be available

Source: Non-Regulatory Guidance Ch. II QC10 pg 18



MIGRATORY AGRICULTURAL WORKER - RECENT HISTORY OF MOVES

For a person to be considered to have a "recent history of moves" they must have made 2 moves in the previous 36 months that resulted in qualifying work.

Source: Non-Regulatory Guidance Ch. II QC13 pg 18



MIGRATORY AGRICULTURAL WORKER - RECENT HISTORY OF MOVES

When a recruiter is looking for a person's history of moves, the moves must have occurred within 36 months from the date of the eligibility interview.

Source: Non-Regulatory
Guidance Ch. II QC13 pg 18



REVIEW OF DEFINITIONS

Agricultural Work	<i>The production or initial processing of crops, dairy products, poultry, or livestock: as well as the cultivation or harvesting of trees, that is performed for wages or personal subsistence</i>
Actively Sought	<i>May occur before or after the qualifying move; must occur “soon after” the move (60 days)</i>
Engaged	<i>The worker has their hands on the product; has started performing the qualifying work*</i>
Seasonal Work	<i>Occurs only during a certain period of the year that is bound by cycles of nature. It is not continuous throughout the year</i>
Soon After	<i>Within 60 days of the qualifying move*</i>
Temporary Work	<i>The worker is employed for less than 12 months</i>

NEXT STEPS

To continue learning, read Chapter 7: Determining Eligibility in the National ID&R Manual located here:

<https://results.ed.gov/idr-manual>

Take the *Migratory Agricultural Worker* mini-quiz to test your knowledge:

<https://www.classmarker.com/online-test/start/?quiz=7pb5d78051a4aea5>

Then continue on to **Recruiting 101 Lesson 4: Qualifying Moves**