
CHILD ELIGIBILITY

The ESSA defines “migratory agricultural worker” and a “migratory fisher” as a person who, in the preceding 36 months made a qualifying move, and after, doing so, engaged in new temporary or seasonal employment or person subsistence in agriculture or fishing. At what point is a worker “engaged”?

The worker is engaged when he or she has started performing the qualifying work. The MEP regulations do not define the word “engage”; however, the MEP Non-Regulatory Guidance, provides guidance around a worker’s engaging in qualifying work “soon after the move”. (See MEP NRG Chapter II, Questions C5-C12.)

Are H2A visa holders “engaged”?

No. H-2A visa holders are not automatically considered to be engaged in qualifying work. An individual’s visa status does not have any impact on whether he or she may be considered a migratory child, migratory agricultural worker or migratory fisher. The only criteria for being considered a migratory child, migratory agricultural worker, or migratory fisher are those established in sections 1115(c) and 1309 of the ESEA, and in applicable regulations in 34 C.F.R. §§ 200.81, 200.89(c), and 200.103. (See MEP Non-Regulatory Guidance, Chapter II, Question D14.)

If a child makes another qualifying move within 60 days do you need to create a new Certificate of Eligibility (COE) or revise the original COE?

A COE must be completed every time a child makes a new qualifying move that would renew the child’s eligibility for the MEP; in other words, each time a new qualifying arrival date (QAD) is established for a child. (Please see National COE Instructions, page 3, first bullet.)

On the COE, does a residency date need to be filled out for each child in a multi-child family?

Yes. (See National COE Instructions, page 4.)

When are additional signatures needed on the COE?

The COE must be signed by the interviewee, recruiter and designated SEA reviewer. If a State chooses to include other statements on the COE that require, for example, a parent/guardian signature specifically, the State can include those statements separately from the Interviewee Signature. The Department of Education (ED) strongly recommends that States obtain the approval of their legal counsel to ensure that additional statements they add to this section comply with the applicable Federal, State, and local laws and policies. (See National COE Instructions, pages 12-13.)

ELIGIBILITY SCENARIOS

Raul, a 14 year old 8th grade student moves from Rochester, NY to Belleglade, FL for his parents to work in migratory agricultural work picking oranges on 12/01/14 two weeks after arriving in Florida. On 10/15/17 the family makes a qualifying move due to economic necessity to move in with their grandparents from Belleglade, FL to Brockport, NY. The local recruiter locates this family and conducts an interview on 07/15/18. Is Raul eligible?

Raul is not eligible to receive services because on the date of the interview on 7/15/18, his parents are not migratory agricultural workers according to the ESSA definition. Although there was a qualifying move made by Raul and his parents on 10/15/17, his parents did not engage in new qualifying work soon after the move, nor did they actively seek new qualifying work and have a recent history of moves. After the family moves on 12/01/14, they do meet the definitions for migratory child and migratory agricultural workers; however, the 12/01/14 move is more than 36 months before the interview.

Family moves yearly for the past five years and makes qualifying moves and engages in work. This year the family has moved and has not engaged in work yet. To complete the COE, is it acceptable to use last year's move date on the COE where the worker engaged in work rather than have to put this year's move date where the worker did not engage in work and then also to have to include the last two moves for the worker?

Yes, it is acceptable to document the child's eligibility based on either the qualifying move this year when the worker has not engaged yet in qualifying work or the qualifying move last year when the worker actually engaged in qualifying work. In both examples, the qualifying arrival date (QAD) for the child will be the date of this year's qualifying move.

Jose and his young children make a qualifying move together from California to Sunnyside, WA on 08/01/17 to pick cherries. A COE is completed on 08/10/17 for the family. One month later (09/01/17) Jose is offered a job harvesting potatoes in Pasco, WA. Jose leaves his family and makes a qualifying move to Pasco where he begins work harvesting potatoes. After working for two months, Jose moves back to Sunnyside, WA on 11/01/17 to rejoin his children. As the children moved for economic necessity on 08/01/17 and Jose made a qualifying move to engage in work on 09/01/17, can a COE be completed upon his return to Sunnyside with a Qualifying Arrival Date of 11/01/17?

No. The children's qualifying arrival date is 8/01/2017, the date of the move they made with their father who is an agricultural worker, from CA to Sunnyside, WA. The children did not make another move with or to join the father. (See MEP Non-Regulatory Guidance, Chapter II, Questions E1-E4.)