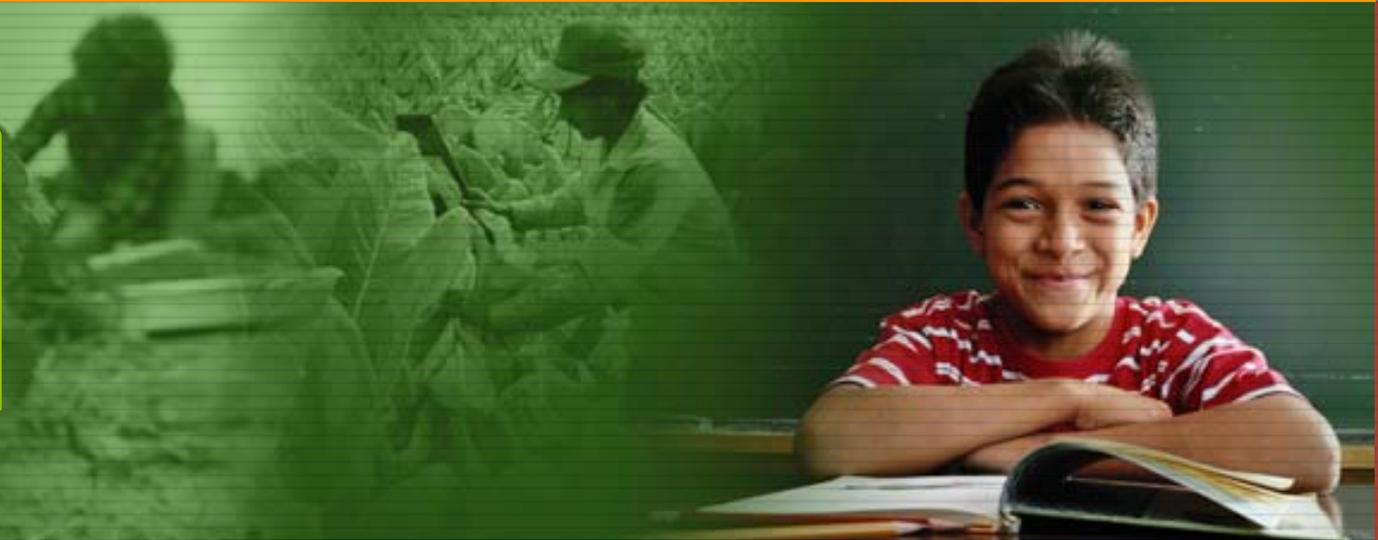


# OME IDENTIFICATION AND RECRUITMENT TRAINING



## Eligibility Definitions and Factors



## Agricultural work

(a) ***Agricultural work*** means the production or initial processing of crops, dairy products, poultry, or livestock, as well as the cultivation or harvesting of trees. It consists of work performed for wages or personal subsistence.



## Fishing work

(b) ***Fishing work*** means the catching or initial processing of fish or shellfish or the raising or harvesting of fish or shellfish at fish farms. It consists of work performed for wages or personal subsistence.



## In Order to Obtain

(c) *In order to obtain*, when used to describe why a worker moved, means that one of the purposes of the move is to seek or obtain qualifying work.



## In Order to Obtain

(1) If a worker states that a purpose of the move was to seek any type of employment, i.e., the worker moved with no specific intent to find work in a particular job, the worker is deemed to have moved with a purpose of obtaining qualifying work if the worker obtained qualifying work soon after the move.



## In Order to Obtain

(2) Notwithstanding the introductory text [of the previous slide], a worker who did not obtain qualifying work soon after a move may be considered to have moved in order to obtain qualifying work only if the worker states that at least one purpose of the move was specifically to seek the qualifying work, and—



## In Order to Obtain

- (i) The worker is found to have a prior history of moves to obtain qualifying work; or
- (ii) There is other credible evidence that the worker actively sought qualifying work soon after the move but, for reasons beyond the worker's control, the work was not available.



## Migratory agricultural worker

(d) ***Migratory agricultural worker*** means a person who, in the preceding 36 months, has moved, as defined in paragraph (g), 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 employment or seasonal employment in agricultural work, including dairy work.



## Migratory child

- (e) ***Migratory child*** means a child—
- (1) Who is a migratory agricultural worker or a migratory fisher; or
  - (2) Who, in the preceding 36 months, in order to accompany or join a parent, spouse, or guardian who is a migratory agricultural worker or a migratory fisher—



## Migratory child

- (i) Has moved from one school district to another;
- (ii) In a State that is comprised of a single school district, has moved from one administrative area to another within such district; or
- (iii) As the child of a migratory fisher, 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.



## Migratory fisher

(f) ***Migratory fisher*** means a person who, in the preceding 36 months, has moved, as defined in paragraph (g), 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 employment or seasonal employment in fishing work.



## Migratory fisher

- 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, as defined in paragraph (g), a distance of 20 miles or more to a temporary residence in order to obtain temporary employment or seasonal employment in fishing work.



## Move or Moved

(g) ***Move or moved*** means a change from one residence to another residence that occurs due to economic necessity.



## Personal subsistence

- (h) ***Personal subsistence*** means that the worker and the worker's family, as a matter of economic necessity, consume, as a substantial portion of their food intake, the crops, dairy products, or livestock they produce or the fish they catch.



## Qualifying work

- (i) ***Qualifying work*** means temporary employment or seasonal employment in agricultural work or fishing work.



## Seasonal employment

(j) ***Seasonal employment*** means employment 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.



## Temporary employment

- k) ***Temporary employment*** means employment that lasts for a limited period of time, usually a few months, but no longer than 12 months.



## *Temporary employment*

- Typically includes employment where the employer states that the worker was hired for a limited time frame;
- the worker states that the worker does not intend to remain in that employment indefinitely; or
- the State educational agency has determined on some other reasonable basis that the employment is temporary



# Eligibility Factors

## 1. AGE

The child is younger than age 22



# Eligibility Factors

## **2. SCHOOL COMPLETION:**

The child is eligible for a free public education (e.g., the child is not a high school graduate and does not hold a high school equivalency certificate.)



# Eligibility Factors

## **3. MOVE ACROSS SCHOOL DISTRICT BOUNDARIES:**

The child moved from one school district to another.



# Eligibility Factors

## **4. DATE OF MOVE:**

The child moved within the past 36 months.



# Eligibility Factors

## **5. REASON FOR THE MOVE:**

The worker moved in order to seek or obtain qualifying work.



# Eligibility Factors

## 6. QUALIFYING WORK

The worker sought or obtained temporary or seasonal employment in agricultural or fishing work.



## Reference

34 CFR (Code of Federal Regulations: Education). *Federal Register*. July 29, 2008. Vol. 73, No. 146. July 29. 44102–25. Available at <http://www.gpoaccess.gov/cfr/>, accessed February 10, 2009.