



# Qualifying Work

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“Seasonal or Temporary Employment”

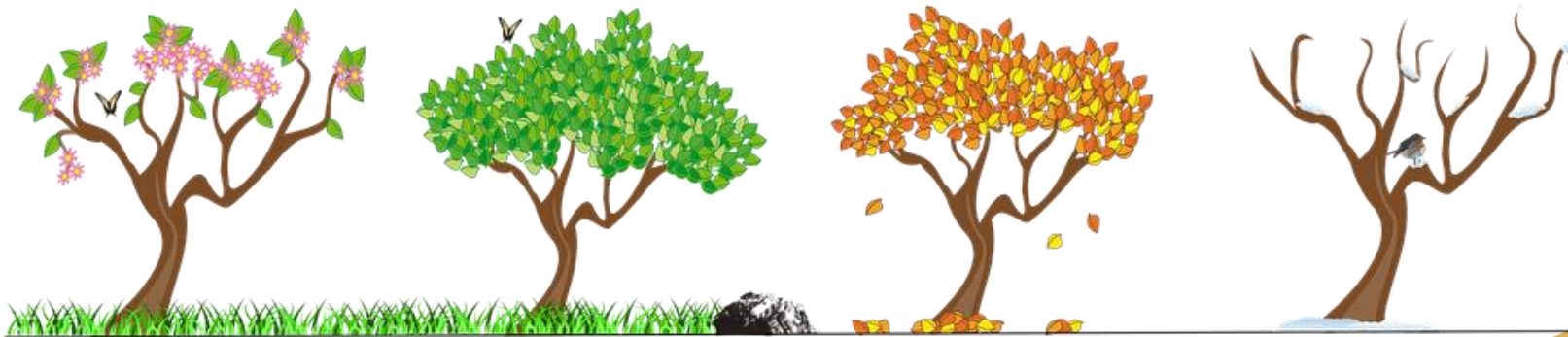
**Neither seasonal nor temporary  
employment may last longer than  
12 months**



# Qualifying Work

## “**Seasonal** or Temporary Employment”

**Seasonal** – 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.



*2017 Non-Regulatory Guidance, Chapter II, G1*

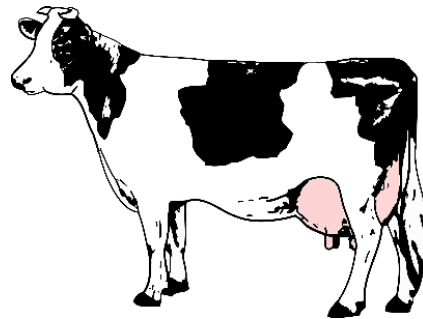
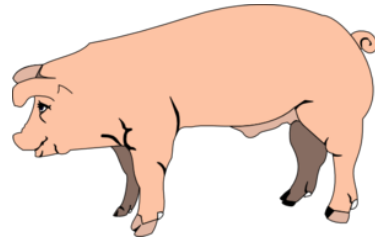
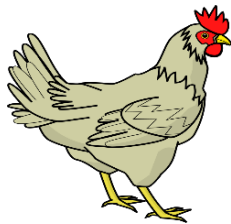


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## “Seasonal or **Temporary** Employment”

**Temporary** – Employment that lasts for a limited period of time, usually a few months, but no longer than 12 months.

- The **worker states** he/she does not intend to remain in that employment indefinitely (i.e., the worker’s employment will not last longer than 12 months).
- **Employer states** that worker was hired for a limited timeframe, not to exceed 12 months.



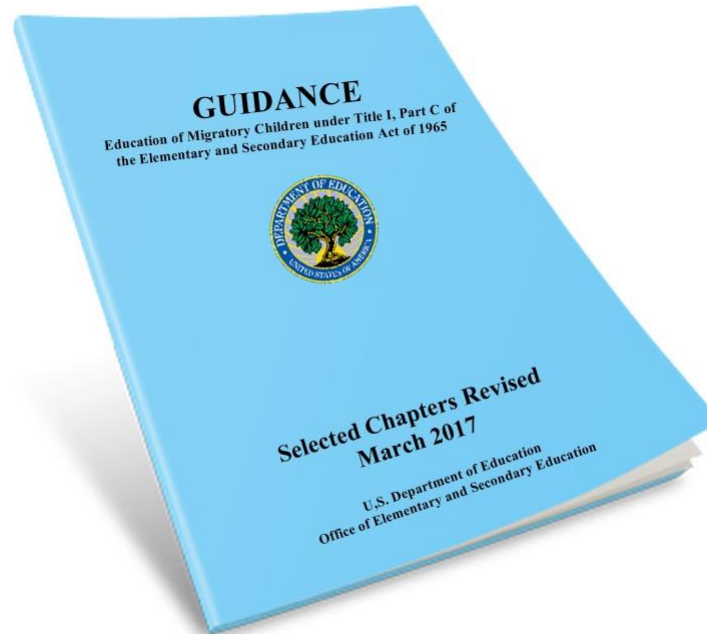
2017 Non-Regulatory Guidance, Chapter II, **G5**, & **G6**



# Qualifying Work

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The following slides are questions from the MEP Non-Regulatory Guidance addressing qualifying work.





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## “Seasonal or Temporary Employment”

**G7. Is a worker who was hired to perform a series of different jobs, which together lead to the worker being employed by the same employer for more than 12 months, employed on a temporary or seasonal basis?**

No. Workers who are hired to work for more than 12 months by the same employer, regardless of how many different jobs they perform, are not “engaged in new temporary or seasonal employment” as provided in the definitions of migratory agricultural worker and migratory fisher in section 1309(2) and (4) of the ESEA. See also 34 C.F.R. § 200.81(o) and (p).



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## “Seasonal or Temporary Employment”

**G12. Should jobs that occur only at certain times of the year because of a holiday or event be considered as temporary employment or seasonal employment?**

Jobs that occur only at certain times of the year because of a holiday or event (*e.g.*, Thanksgiving, Christmas, etc.) should be considered temporary employment because the time of year that the work is performed is not dependent on the cycles of nature, but rather the holiday or event.



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## “Seasonal or Temporary Employment”

**F29. May a worker who is “self-employed” qualify as a migratory agricultural worker or migratory fisher?**

Generally, no. The Department believes that, in general, if a worker is self-employed in a business that operates, or is available, on a year-round basis (*e.g.*, workers who own their own farm, crop-dust planes, or combines), that worker would not move and engage in *new employment* that is seasonal or temporary...We note that the definitions of these two terms provide that the worker’s *employment* be seasonal or temporary, not that the agricultural work or fishing work that is performed be seasonal or temporary.

*2017 Non-Regulatory Guidance, Chapter II, G5, & G6*



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## Nursery Work

Is qualifying work in a nursery considered seasonal or temporary?

It depends. As a general rule of thumb, nursery work will be considered temporary work. Since the recruiter needs to determine that the employment lasts less than 12 months regardless if it is seasonal or temporary, they should gather a statement from the worker indicating the temporary status of the worker's employment.





# Qualifying Work

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## Nursery Work

Is qualifying work in a nursery considered seasonal or temporary?

There may be instances, though, when a plant is only grown during a certain time of the year because of the cycles of nature. If this is the case and the recruiter determines the qualifying work to be seasonal, a comment must be included to explain the recruiter's decision. This comment must be of sufficient basis to explain the recruiter's rationale for determining that the qualifying work is seasonal.



# Qualifying Work

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## Nursery Work

For example, many nurseries hire their workers to do many different jobs that may not be dependent on the cycles of nature. For these instances, refer to G7 of the NRG. The recruiter needs to determine that the worker is employed on a temporary basis and will not be employed by the nursery for more than 12 months.



# Qualifying Work

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## Nursery Work

For another example, many nurseries grow different plants at different times of the year to correspond with the different holidays seasons. For example, they might grow poinsettias for the Christmas season, roses for Valentine's day, different flowers for Easter and Mother's Day, for instance. If the worker is employed during one of these times, the work is not considered seasonal because it is not dependent on the cycles of nature. See question G12 of the guidance.