# Supplemental FAQs

**Recruitment and Eligibility under section 418A of the Higher Education Act of 1965, as amended**

**Q1. The definition of “farmwork” in 34 CFR 206.5(c)(3) states that farmwork means any agricultural activity, performed for either wages or personal subsistence, on a farm, ranch, or similar establishment. What is meant by the term “personal subsistence”?**

The Office of Migrant Education (OME) interprets the term personal subsistence to mean that the worker and his or her family, as a matter of the family’s economic necessity, consume, as a substantial portion of their food intake, the crops, dairy products, and livestock they produce.

# Q2. What is meant by the term “wages”?

OME interprets the term wages to mean a fixed payment, usually of money and typically paid on a daily, weekly, or per-piece basis, made by an employer to an employee.

# Q3. Can room and board qualify as wages?

Yes. Room and board may qualify as wages in lieu of or in addition to the payment described above in Question 2. OME considers the monetary cost to the employer of furnishing an employee with board, lodging, or other facilities to be equivalent to “wages”. Room and board does not qualify as personal subsistence.

# Q4. May a worker who is “self-employed” qualify as performing eligible migrant or seasonal farmwork under 34 CFR 206.3(a)(1)?

Yes, in some circumstances. In general, OME considers migrant and seasonal farmworkers to be either employed for wages or performing work for personal subsistence. However, while some workers, such as those who glean leftover crops from fields, might consider themselves “self-employed,” OME considers the money such workers earn from the sale of the product equivalent to “wages”. To the extent that gleaners consume the food they gather as a substantial portion of their food intake, OME would consider this work performed for “personal subsistence”).

# Q5. Can work on family-owned farm qualify as eligible migrant or seasonal farmwork under 34 CFR 206.3(a)(1)?

No. To qualify under 34 CFR 206.3(a)(1) an individual’s (or the individual’s immediate family member’s) primary employment must have been in farmwork (i.e., an agricultural activity being performed for wages or personal subsistence on a farm, ranch, or similar establishment) on a temporary or seasonal basis (that is not constant year-round activity) for a minimum of 75 days during the past 24 months.

OME considers workers who own a farm to be employed throughout the year, even if they work on their farm seasonally or for a few months at a time.

# Q6. If a person holds multiple jobs during the same period of time, one or several of which are qualifying farmwork under 34 CFR 206.3(a)(1), would he or she qualify as a migrant or seasonal farmworker?

It depends. If the worker has performed migrant or seasonal farmwork for a period of at least 75 days in the past 24 months, and this work was the “primary employment” during this period of time, the worker would qualify as a migrant or seasonal farmworker. However, the recruiter should keep in mind that in order for the worker or his or her immediate family members to be eligible to participate in a HEP or CAMP project, the potential participant must also meet all other eligibility criteria, including being in need of the academic and supporting services and financial assistance provided by a project. It may be the case that an individual who works multiple jobs would not need these services and assistance. HEP and CAMP grantees should follow the policies they have in place for determining which individuals need services and assistance

# Q7. How can HEP and CAMP recruiters determine if the qualifying migrant or seasonal farmwork is the “primary employment” of the worker or his or her immediate family member?

Through the interview process, the recruiter should be satisfied that the agricultural or fishing work provides the principal, but not necessarily sole, support for the family. Absent clear evidence to the contrary, the recruiter may rely on information the worker, employer, or other relevant person provides and should make a sound judgment based on that information. In cases where the worker’s statements about the family’s reliance on the agricultural or fishing work does not seem reasonable (e.g., the household is also supported by family members engaged in non-qualifying work) consult with their project director before making an eligibility determination.