



MIGRATORY CHILD AND GUARDIAN

Recruiter Training Resource Series



DEFINITION OF A MIGRATORY CHILD

A child is a migratory child if the following conditions are met:

- A child that is not older than 21 years of age; and
- The child is entitled to free public education (through grade 12) under State law, or a child that is not yet at a grade level at which the local education agency (LEA) provides free public education; and
- The child made a qualifying move in the preceding 36 months as a migratory agricultural worker or a migratory fisher, or did so with, or to join a parent/guardian or spouse who is a migratory agricultural worker or a migratory fisher; and
- The child moved from one residence to another AND from one school district to another due to economic necessity.

WHO ARE 'OUT-OF-SCHOOL YOUTH'?

- The term “out-of-school youth” means children through age 21 who are entitled to free public education in the State and who meet the definition of a “migratory child,” but who are not currently enrolled in a K-12 institution. This term could include students who have dropped out of school, youth who are working on a high school equivalency diploma (HSED) outside of a K-12 institution, and youth who are “here-to-work” only.
- Enrollment in school is not a condition affecting eligibility for the MEP. Therefore, out-of-school youth who meet the definition of a “migratory child” are eligible for the MEP.



WHAT ABOUT 'EMANCIPATED YOUTH'?

Emancipated youth are children who have not yet reached adult age (in accordance with State law), who are no longer under the control of a parent/guardian, and who are solely responsible for their own welfare. Emancipated youth are eligible for the MEP if they meet the definition of a “migratory child.” Some out-of-school youth may be “emancipated youth.”



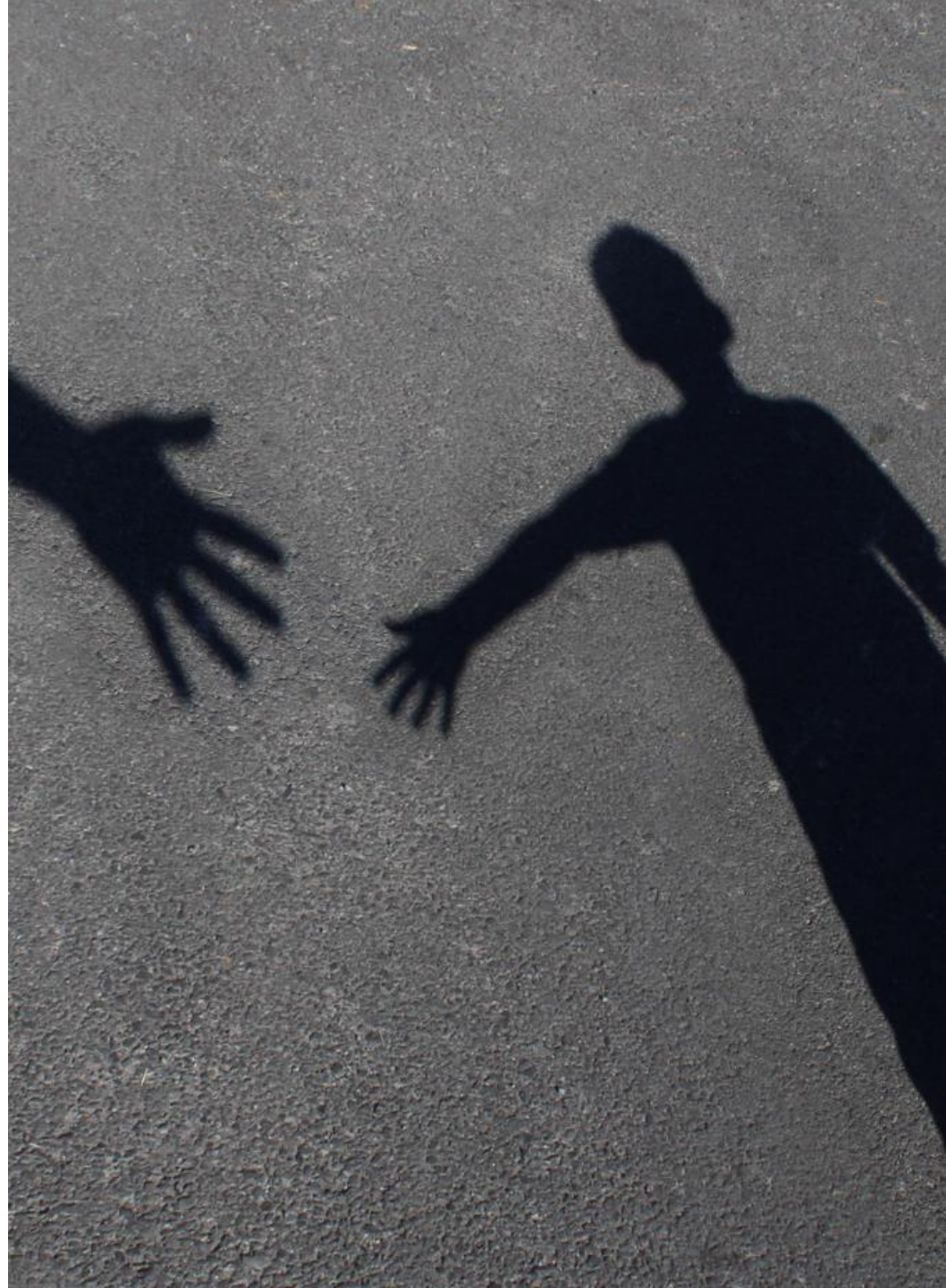
WHAT HAPPENS IF A CHILD LIVES WITH A GUARDIAN THAT IS A MIGRATORY AGRICULTURAL WORKER?



Section 8101(38) of the ESEA defines “parent” as a legal guardian or other person standing *in loco parentis* (i.e., in place of the parent), such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child’s welfare. The MEP guidance and the national COE use the term “parent/guardian” to include guardian within this statutory definition of a parent. So, if this person is a migratory agricultural worker or migratory fisher if the child moves with or moves to join this guardian than this can be considered for eligibility in the Migrant Education Program. In some cases a sibling can be a guardian.

IS A LEGAL DOCUMENT NECESSARY TO ESTABLISH GUARDIANSHIP?

As long as the guardian stands in the place of the child's parent and accepts responsibility for the child's welfare, a legal document establishing guardianship is not necessary.





IF ELIGIBILITY OF AN OUT-OF-SCHOOL YOUTH IS BASED ON A SPOUSES' STATUS AS A MIGRATORY WORKER IS A MARRIAGE CERTIFICATE NEEDED?

A marriage certificate is NOT needed to establish a spousal relationship.