

Surrogate Parents

The LEA's Responsibilities



Vision

To create a world-class educational system that gives students the knowledge and skills to be successful in college and the workforce, and to flourish as parents and citizens

Mission

To provide leadership through the development of policy and accountability systems so that all students are prepared to compete in the global community

- ✓ All Students Proficient and Showing Growth in All Assessed Areas
- ✓ Every Student Graduates High School and is Ready for College and Career
- ✓ Every Child Has Access to a High-Quality Early Childhood Program
- ✓ Every School Has Effective Teachers and Leaders
- ✓ Every Community Effectively Using a World-Class Data System to Improve Student Outcomes

Surrogate Parents

IDEA § 300.30 and State Board Policy 7219 address who can serve as a parent

(a) Parent means--

(1) A biological or adoptive parent of a child;

(2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;

(3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);

(4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

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(5) A surrogate parent who has been appointed in accordance with Sec. 300.519 or Section 639(a)(5) of the Act.

(b) (1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of this section.

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The child's legal status, rather than living arrangements, is the first and most important factor in the decision to appoint a surrogate parent.

- Most often a student who needs a surrogate is a ward of the State.
- A surrogate parent is not needed if someone is available who can be considered a “parent” under IDEA.

Surrogate Parents

IDEA §300.519 and State Board Policy 7219 address Surrogate Parents

(a) General. Each public agency must ensure that the rights of a child are protected when—

- (1) No parent (as defined in §300.30) can be identified;
- (2) The public agency, after reasonable efforts, cannot locate a parent;
- (3) The child is a ward of the State under the laws of the State;
or
- (4) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11434a(6)].

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(b) *Duties of public agency.* The duties of a public agency under paragraph (a) above include the assignment of an individual to act as a surrogate for the parents. This must include a method—

- (1) For determining whether a child needs a surrogate parent;
and
- (2) For assigning a surrogate parent to the child.

(c) *Wards of the State.* In the case of a child who is a ward of the State, the surrogate parent alternatively **may** be appointed by the judge overseeing the child's case, provided that the surrogate parent meets the requirements in paragraphs (d)(2)(i) and (e) below.

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(d) *Criteria for selection of surrogate parents.*

- (1) The public agency may select a surrogate parent in any way permitted under State law.
- (2) Public agencies must ensure that a person selected as a surrogate parent—
 - (i) Is not an employee of the MDE, the LEA, or any other agency that is involved in the education or care of the child;
 - (ii) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and
 - (iii) Has knowledge and skills that ensure adequate representation of the child.

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(e) *Non-employee requirement; compensation.* A person otherwise qualified to be a surrogate parent under paragraph (d) above is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(f) *Unaccompanied homeless youth.* In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents, without regard to paragraph (d)(2)(i) above, until a surrogate parent can be appointed that meets all of the requirements of paragraph (d) above.

Surrogate Parents

(g) *Surrogate parent responsibilities.* The surrogate parent may represent the child in all matters relating to—

- (1) The identification, evaluation, and educational placement of the child; and
- (2) The provision of FAPE to the child.

(h) *Public agency responsibility.* Each public agency shall make reasonable efforts to ensure the assignment of a surrogate parent not more than thirty (30) days after the public agency determines that the child needs a surrogate parent.

Surrogate Parents

Process for obtaining and training surrogate parents varies from state to state.

- Some states have private entities that train and appoint surrogate parents.
- Some SEAs work in conjunction with their Human Services agency.
- In Mississippi, LEAs appoint and train surrogates.

Surrogate Parents

Authority of surrogate parents

- Under current law, surrogate parents should assume all rights and responsibilities of the IEP process, including access to education records.
- Surrogate parent should represent the student in all education matters, including, but not limited to, identification, assessment, instructional planning, educational placement, reviewing and revising the IEP, and the provision of FAPE.
- Surrogate may exercise any and all rights granted under Federal and State education law.

Surrogate Parents

Each district is responsible for:

- Determining if a student needs a surrogate parent using criteria in (a) above, including a child who is a ward of the State if a judge has not already assigned a surrogate.
 - Special Education Director should be the point of contact.
 - Reasonable efforts to locate the parents should include phone calls, letters, certified letters with return receipt, and a visit to the last residence. It is important to keep a written record of these efforts.
 - The student's social worker is also a valuable resource for this information.

Surrogate Parents

- Assigning a qualified surrogate parent within 30 days of determining the need using criteria in (d) above.
 - Districts should maintain a list of available surrogate parents.
 - Consider individuals with experience in special education, such as retired teachers.
 - Individuals can serve as a surrogate for more than one student.

Surrogate Parents

- Training surrogate parents, including information concerning:
 - What services surrogate parents provide, including legal rights and responsibilities
 - Procedural safeguards
 - Evaluation/reevaluation
 - IEP development and monitoring of progress
 - Dispute resolution
 - Procedural rights during suspension or expulsion

Surrogate Parents

The surrogate parent acts as a substitute parent in special education by:

- Representing the child in all matters related to the identification, evaluation, annual IEP, and educational placement of the child.
- Protecting the special education rights of the child.
- Learning about the child's disability and understanding the special education needs of the child.
- Representing the child in all matters relating to a free appropriate public education (FAPE).

The surrogate parent does not have any rights or responsibilities for the child beyond involvement in special education processes.

Surrogate Parents

- Providing compensation, **if the district so chooses.**
 - This can be included in project application IF it has not been funded from another source in the past.
 - Use comprehensive needs assessment to determine the need in individual districts and budget accordingly.
 - Surrogates are not paid a salary, but can be reimbursed for expenses such as mileage.

Surrogate Parents

MDE will be providing a web-based training model for districts to use. It will be:

- Broken into sessions for individual topics
- Similar to training provided for parents
- Accessible from iTunes U through MDE website
- Available by the end of October