

SURROGATE PARENTS AND FOSTER PARENTS (M)

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Federal and State laws require the Board ensure the rights of a student are protected through the provision of an individual to act as surrogate for the parent and assume all parental rights under N.J.A.C. 6A:14-2.2 when:

- 1. The parent, as defined according to N.J.A.C. 6A:14-1.3, cannot be identified;
- 2. The parent cannot be located after reasonable efforts;
- 3. An agency of the State of New Jersey has guardianship of the student and that agency has not taken steps to appoint a surrogate parent for the student;
- 4. The student is a ward of the State and no State agency has taken steps to appoint a surrogate parent for the student;
- 5. No parent can be identified for the student in accordance with N.J.A.C. 6A:14-1.3 except a foster parent, the foster parent does not agree to serve as the student's parent, and no State agency has taken steps to appoint a surrogate parent for the student; and
- 6. The student is an unaccompanied homeless youth and no State agency has taken steps to appoint a surrogate parent for the student.

Qualifications and Selection

- The district will make reasonable efforts to appoint a surrogate parent within thirty days of its determination that a surrogate parent is required for a student. If the district fails to appoint a surrogate parent for a ward of the State, a judge may appoint a surrogate parent if the judge determines a surrogate parent is necessary for such student.

- The person serving as a surrogate parent shall:

- 1. Have no interest that conflicts with those of the student he/she represents;
- 2. Possess knowledge and skills that ensure adequate representation of the student;
- 3. Not be replaced without cause;
- 4. Be at least eighteen years of age;
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5. Have a criminal history review in accordance with N.J.S.A. 18A:6-7.1 completed prior to his or her serving as the surrogate parent, if the school district compensates the surrogate parent for such services; and

6. Not be an employee of the New Jersey Department of Education, this district, or a public or nonpublic agency that is involved in the education or care of the child.

The Assistant Superintendent shall serve as Surrogate Parent Coordinator and will: determine whether there is a need for a surrogate parent for a student; contact any State agency that is involved with the student to determine whether the State has a surrogate parent appointed for the student; and make reasonable efforts to appoint a surrogate parent for the student within thirty days of determining that there is a need for a surrogate parent for the student.

When a student (who is or may be a student with a disability) is in the care of a foster parent, and the foster parent is not the parent of the student as defined in N.J.A.C. 6A:14-1.3, the district where the foster parent resides shall contact the student's case manager at the Division of Child Protection and Permanency (DCP&P) in the Department of Children and Families to determine whether the parent retains the right to make educational decisions and determine the whereabouts of the parent.

If the parent retains the right to make educational decisions and the parent's whereabouts are known to the school district, the Surrogate Parent Coordinator shall obtain all required consent from and provide written notices to the parent.

If the district cannot ascertain the whereabouts of the parent, the foster parent, unless that person is unwilling to do so, shall serve as the parent pursuant to N.J.A.C. 6A:14-1.3. If there is no foster parent, or if the foster parent is unwilling to serve as the student's parent, the Surrogate Parent Coordinator shall consult with the student's case manager at DCP&P to assist in identifying an individual to serve as a surrogate parent and appoint a surrogate parent and obtain all required consent from, and provide written notices to, the surrogate parent.

Training

N.J.A.C 6A:14-2.2(d) requires the district train surrogate parents so they have the knowledge and skills that ensure adequate representation of the student. The Surrogate Parent Coordinator shall coordinate the training for surrogate parents. The training will include, but not be limited to:

1. Providing the surrogate parent a copy of:



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- - a. Parental Rights in Special Education booklet;
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 - b. N.J.A.C. 6A:14;
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 - c. The Special Education Process;
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 - d. Code Training Materials from the Department of Education website;
and
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 - e. Other relevant materials.
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- 2. Providing the surrogate parent an opportunity to meet with the Surrogate Parent Coordinator to discuss the rights of the surrogate parent and the applicable statutes, administrative codes, and Federal laws. The Surrogate Parent Coordinator shall provide the surrogate parent the opportunity to review and to become familiar with the State and Federal requirements for assessment, individualized educational program development, and parental rights with respect to the referral and placement process, including their rights with respect to seeking a due process hearing if they disagree with the local procedure or decisions;
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- 3. Providing the surrogate parent adequate time to become familiar with the student and the nature of the student's disability through a review of the student's record;
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- 4. Providing the surrogate parent an opportunity to confer with the student's case manager to discuss the student; and
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- 5. Other information and resources to provide the surrogate parent the knowledge and skills to ensure adequate representation of the student.

Rights of the Surrogate Parent

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A surrogate parent appointed in accordance with N.J.A.C. 6A:14-2.2 shall assume all parental rights under N.J.A.C. 6A:14.

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N.J.A.C. 6A:14-2.2~~M~~



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~~The Board of Education shall make every effort to ensure the rights of all students are protected through the provision of an individual to act as surrogate for the parent and assume all parental rights under this Chapter 14, Special Education, when:~~

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~~1. The parent as defined by N.J.A.C. 6A:14-1.3 cannot be identified;~~

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~~2. The parent cannot be located after reasonable efforts;~~

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~~3. A State agency has guardianship of the student or the student is determined a ward of the State and, if the student is placed with a foster parent, the foster parent declines to serve as the student's parent; or~~

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~~4. The student is an unaccompanied homeless youth as defined in § 725(6) of the McKinney-Vento Homeless Assistance Act.~~

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~~An appointed surrogate shall assume all parental rights under N.J.A.C. 6A:14, to make educational decisions, and the District shall obtain all required consent from and provide written notices to the surrogate. The surrogate shall be at least eighteen (18) years of age and, if compensated for serving in such capacity, have successfully passed a criminal history review pursuant to N.J.S.A. 18A:6-7.1. The surrogate shall have no interests that conflict with those of the student he or she represents, and shall possess the knowledge and skills that ensure adequate representation. The surrogate may not be an employee of the Department of Education, the District, or a public or nonpublic agency that is involved in the education or care of the child. Once appointed, the surrogate may not be replaced without cause.~~

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~~When a student, who is or may be a student with a disability, is in the care of a foster parent residing within the confines of the District, a District representative shall contact the student's case manager at the Division of Youth and Family Services (DYFS) in the Department of Human Services in order to determine whether the parent or legal guardian retains the right to make educational decisions and to determine his or her whereabouts.~~

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~~If the parent or legal guardian retains the right to make educational decisions for the student and the parent's whereabouts are known to the Board, the District shall obtain all required consent from and provide written notices to the parent or legal guardian. If the District cannot ascertain the whereabouts of the parent or legal guardian or determines that his or her rights have been terminated, the foster parent, if willing and qualified to do so, shall serve as the surrogate parent.~~

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~~If there is no foster parent or he or she is unwilling or unable to serve, the District shall consult with the student's case manager at DYFS to assist in identifying an individual who may serve as a surrogate. The Board shall appoint the surrogate parent and the District shall~~



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~~thereafter obtain all required consent from and provide written notices to the appointed surrogate.~~

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~~Training~~

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~~The District shall train surrogates in order to ensure that they possess the requisite knowledge and skill to ensure adequate representation of the student. Such training will include, but may not be limited to, the provision of:~~

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- ~~1. A copy of applicable regular and special education statutes and regulations (including N.J.S.A. 18A:46 & 46A and N.J.A.C. 6:3-6, 6A:14 & 14A); a list of low cost legal or other services relevant to a due process hearing; and due process rules and regulations (N.J.A.C. 1:6A);~~

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- ~~2. An opportunity for the surrogate to meet with the District to discuss his or her rights and the applicable statutes, administrative codes, and federal laws;~~

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- ~~3. Adequate time for the surrogate to become familiar with the student through a review of the student's record;~~

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- ~~4. An opportunity for the surrogate to confer with the student's case manager to discuss the student; and~~

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- ~~5. Other information and resources as needed.~~

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~~N.J.A.C. 6A:14-2.2~~

Adopted: 13 April 2009

