

ASSIGNMENT OF SURROGATE PARENTS

Surrogate parents.

1. Duty of the Board of Education. The Board of Education or other appropriate body shall approve a surrogate parent from a list of individuals who are eligible and willing to serve as surrogate parents in order to ensure that the rights of a student are protected if:
 - (i) no parent, as defined in section 200.1(ii) of this Part, can be identified;
 - (ii) the school district, after reasonable efforts, cannot discover the whereabouts of a parent, or the student is an unaccompanied homeless youth, as such term is defined in section 100.2(x)(1)(vi) of this Title; or
 - (iii) the student is a ward of the State and does not have a parent as defined in section 200.1(ii) of this Part or the rights of the parent to make educational decisions on behalf of the student have been subrogated by a judge in accordance with State law.

2. Qualifications. Persons selected as surrogate parents:
 - (i) Shall not be officers, employees or agents of the local school district or State Education Department or other agency involved in the education or care of the student. A school district may select as a surrogate a person who is an employee of a nonpublic agency that only provides non-educational care for the student and who meets the standards in this paragraph. A surrogate parent is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent;
 - (ii) shall have no other interest which could conflict with their primary allegiance to the student they would represent; and
 - (iii) shall have knowledge and skills that ensure adequate representation of the student.

3. Procedures for assigning surrogates. Assignment of a surrogate parent to a particular student shall be made in accordance with the following procedures.
 - (i) Any person whose work involves education or treatment of students and who knows of a student who may need special education services, and who knows that the student meets the criteria in paragraph (1) of this subdivision, may file a request for assignment of a surrogate parent to the student with the committee on special education to which the student may be appropriately referred.

- (ii) The committee on special education shall send notice of the possible need for a surrogate parent to the adult in charge of the student's place of residence and to the parents at their last known address.
- (iii) The committee on special education shall determine whether the student's parents can be identified or located, or whether the student is a ward of the State, consistent with paragraph (1) of this subdivision. Where the student is known to the school district to be a ward of the State, such reasonable efforts to discover the whereabouts of a parent shall include consultation with the local social services district or other agency responsible for the care of the student. The determination of the need for a surrogate parent shall be completed within a reasonable time following the receipt of a referral for an initial evaluation, reevaluation or services. If the committee on special education finds that there is a need for a surrogate parent, a surrogate parent who meets the qualifications identified in paragraph (2) of this subdivision shall be selected from the list approved by the Board of Education, except as otherwise provided in subparagraph (v) through (vii) of this paragraph, within 10 business days of the date of the determination by the committee of the need for the surrogate parent.
- (iv) A surrogate parent shall be assigned to represent the student in all matters relating to the identification, evaluation, and educational placement of the student and the provision of a free appropriate public education to the student for as long as a surrogate parent is required under this Part.
- (v) The foster parent of the student, who otherwise meets the qualifications in paragraph (2) of this section, may be appointed as the surrogate parent of the student without being appointed from a list approved by the Board of Education.
- (vi) The surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate parent meets the requirements in paragraph (2) of this subdivision. The individual appointed by the judge need not be appointed from a list approved by the Board of Education.
- (vii) 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 (2) of this section, until a surrogate can be appointed that meets the appropriate qualifications.