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Surrogate Parents and Foster Parents

Feb 17

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[See POLICY ALERT Nos. 170, 185 and 211]

2467 SURROGATE PARENTS AND FOSTER PARENTS

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(s) 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 ~~or located after reasonable efforts~~;
2. **The parent cannot be located after reasonable efforts;**
32. 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**;
43. The **student** is a ward of the State and no State agency has taken steps to appoint a surrogate parent for the **student**;
54. 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
65. 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 a **student**.



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The person serving as a surrogate parent **shall**:

1. ~~Shall H~~ave no interest that conflicts with those of the **student** he/she represents;
2. ~~Shall P~~ossess ~~the~~ knowledge and skills that ensure adequate representation of the **student**;
3. ~~Shall N~~ot be replaced without cause;
4. ~~Shall B~~be at least eighteen years of age;
5. ~~Shall H~~ave 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. ~~Shall N~~ot 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 Director of Special Services or designee **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 ~~will~~ 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 ~~residing in this district~~, and the foster parent is not the parent of the **student** as defined in N.J.A.C. 6A:14-1.3, the ~~Director of Special Services or designee~~ **district where the foster parent resides** shall contact the **student's** case manager at the Division of **Child Protection and Permanency (DCP&P) Youth and Family Services (DYFS)** in the Department of **Children and Families Human Services** to determine whether the parent(s) retains the right to make educational decisions and ~~to~~ determine the whereabouts of the parent(s).



If the parent(s) retains the right to make educational decisions and the parent's whereabouts are known to the school district, the **Surrogate Parent Coordinator** ~~Director of Special Services or designee~~ shall obtain all required consent from and provide written notices to the parent(s).

If the district cannot ascertain the whereabouts of the parent(s), 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.** ~~Director of Special Services or designee shall consult with the student's case manager at DYFS to assist in identifying an individual, including the foster parent, who may serve as a surrogate.~~ If there is no foster parent, or if the foster parent is unwilling to serve as the **student's parent pursuant to N.J.A.C. 6A:14-1.3,** the **Surrogate Parent Coordinator** ~~Director of Special Services or designee~~ shall consult with the **student's** case manager at **DCP&P** ~~DYFS~~ to assist in identifying an individual to serve as a surrogate parent and ~~the Director of Special Services or designee shall~~ 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** ~~Director of Special Services or designee~~ shall coordinate the training for surrogate parents. The training will include, but not be limited to:

1. Providing the surrogate parent a copy of:
 - a. Parental Rights in Special Education booklet;
 - b. N.J.A.C. 6A:14;
 - c. The Special Education Process;
 - d. Code Training Materials from the Department of Education website; and
 - e. Other relevant materials.



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2. Providing the surrogate parent an opportunity to meet with the **Surrogate Parent Coordinator** ~~Director of Special Services or designee~~ to discuss the rights of the surrogate parent and the applicable statutes, administrative codes, and Federal laws. The **Surrogate Parent Coordinator** ~~Director of Special Services or designee~~ 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;
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;
4. Providing the surrogate parent an opportunity to confer with the **student's** case manager to discuss the **student**; and
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

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.

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

Adopted: 17 July 2012

Revised: _____

