

Attachment A

Federal Legislation: 34 CFR Sec. 300.519 Surrogate parents.

- (a) General. Each public agency must ensure that the rights of a child are protected when—
- (1) No parent (as defined in Sec. 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 that 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)).
- (b) Duties of public agency. The duties of a public agency under paragraph (a) of this section 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 meets the requirements in paragraphs (d)(2)(i) and I of this section.
- (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 SEA, 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.
- (e) Non-employee requirement; compensation. A person otherwise qualified to be a surrogate parent under paragraph (d) of this section 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) of this section, until a surrogate parent can be appointed that meets all of the requirements of paragraph (d) of this section.
- (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) SEA responsibility. The SEA must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.
(Authority: 20 U.S.C. 1415(b) (2))

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Sec. 10-94f. Definitions. As used in sections 10-94f to 10-94l, inclusive:

(1) "Surrogate parent" means the person appointed by the Commissioner of Education as a child's advocate in the educational decision-making process in place of the child's parents or guardian and such person shall be deemed to be an "other employee" for purposes of section 10-235;

(2) "The educational decision-making process" includes the identification, evaluation, placement, hearing, mediation and appeal procedures provided for in this chapter and the evaluation and planning procedures provided for in Section 504 of the Rehabilitation Act of 1973, as amended from time to time, which may be available to a child subsequent to the receipt of special education and related services pursuant to this chapter.

Sec. 10-94g. Commissioner of Education to appoint surrogate parent. Procedure for objection to or extension of said appointment. (a)(1) When in the opinion of the Commissioner of Education or a designee of said commissioner, (A) a child may require special education, or a child who required special education no longer requires such education but requires or may require services under Section 504 of the Rehabilitation Act of 1973, as amended from time to time, and (B) the parent or guardian of such child cannot be identified, the whereabouts of the parent cannot be discovered after reasonable efforts to locate the parent have been made, such child is a ward of the state or such child is an unaccompanied and homeless youth, both as defined in 42 USC 11434a, as amended from time to time, the commissioner or a designee of said commissioner shall appoint a surrogate parent who shall represent such child in the educational decision-making process. (2) A surrogate parent may also be appointed for a child who is under the supervision of the Department of Children and Families and receiving education services from Unified School District #2, provided the parent or guardian: (A) Is notified by certified mail that the child is or may be eligible to receive special education and related services; (B) agrees or fails to object to the appointment of a surrogate parent; (C) receives identical notices as the surrogate parent; and (D) may revoke the appointment of a surrogate parent at any time.

(b) A parent or guardian of a child for whom a surrogate parent has been appointed in accordance with the provisions of this section, or the Commissioner of Children and Families or a designee of the commissioner on behalf of any such child in the custody of the commissioner, or a pupil for whom a surrogate parent has been appointed in accordance with the provisions of said section if such pupil is an emancipated minor or at least eighteen years of age who objects to the appointment or extension of the appointment of a surrogate parent, shall notify the commissioner in writing of such objection or request. The commissioner or his designee shall schedule a conference relating to such objection or request within ten days of the receipt of such notice. Upon failure of the commissioner to schedule such conference or upon the inability of the parties to resolve the issues within thirty days of the receipt of the notice, such parent, guardian, commissioner or a pupil shall be provided a hearing within thirty days following a written request directed to the commissioner in accordance with the provisions of chapter 54, provided that a final decision on such hearing shall be rendered within fifteen days following the close of evidence.

Sec. 10-94h. Duration of appointment as surrogate parent. Appointment of successor surrogate parent. Appointment of a surrogate parent shall be effective until the child reaches

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eighteen years of age, provided the Commissioner of Education, not less than thirty days prior to the child's eighteenth birthday, may extend such appointment until the child graduates from high school or reaches the age of twenty-one years, whichever occurs first. If the surrogate parent resigns or dies or for any other reason is unable to continue as surrogate parent for the child, the Commissioner of Education shall, if said commissioner deems the appointment of a successor surrogate necessary, appoint a successor surrogate parent.

Sec. 10-94i. Rights and liabilities of surrogate parents. The surrogate parent of any child appointed pursuant to section 10-94h shall have the same right of access as the natural parents or guardian to all records concerning the child, including, but not limited to, educational, medical, psychological and welfare records. No surrogate parent appointed pursuant to the provisions of said section 10-94h shall be liable to the child entrusted to such surrogate parent or the parents or guardian of such child for any civil damages which result from acts or omissions of such surrogate parent which constitute ordinary negligence. This immunity shall not apply to acts or omissions constituting gross, wilful or wanton negligence.

Sec. 10-94j. Regulations re appointment of surrogate parents. The Commissioner of Education shall promulgate regulations establishing procedures to: (1) Determine whether a child is in need of a surrogate parent; (2) report to the commissioner when a child may require a surrogate parent; (3) appoint, and revoke the appointment of, a surrogate parent; (4) establish qualifications and training procedures necessary for any surrogate parent appointed pursuant to section 10-94g; and (5) monitor the effectiveness of a surrogate parent.

Sec. 10-94k. Funding of surrogate parent program. All costs incurred by the state pursuant to sections 10-94f to 10-94k, inclusive, shall be paid from funds available under P. L. 93-380, entitled "An Act to Extend and Amend the Elementary and Secondary Education Act of 1965 and for Other Purposes", as may from time to time be amended and provided that under no circumstances will any funds of the state be expended to implement the purposes of said sections.

Sec. 10-94l. Surrogate parent program. (a) The Commissioner of Education shall administer, within available appropriations and in consultation with the Commissioner of Children and Families, a surrogate parent program. The Commissioner of Children and Families shall select any foster child, as defined in section 17a-110, who resides in the area identified as Region 3 by the Department of Children and Families for participation in the program, and the Commissioner of Education shall appoint a surrogate parent for such child. The surrogate parent shall represent the foster child in the educational decision-making process, provided the parent or guardian of the foster child: (1) Agrees or fails to object to the appointment of a surrogate parent; (2) receives identical notices as the surrogate parent; and (3) may revoke the appointment of a surrogate parent at any time.

(b) Not later than January 1, 2016, and annually thereafter, the Commissioners of Education and Children and Families shall jointly submit a report, in accordance with section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to children and education on the surrogate parent program.



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Subject

Appointment of Surrogate Parents

Inclusive Sections

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Appointment of Surrogate Parents

Sec. 10-94j-1. Authority

These regulations are authorized by Section 10-94j of the General Statutes, as amended by Public Act 81-247, concerning the appointment of surrogate parents.

(Effective December 1, 1982)

Sec. 10-94j-2. Appointment

A surrogate parent, duly appointed pursuant to the provisions of sections 10-94f to 10-94k, inclusive, of the General Statutes, as amended by Public Act 81-247, shall serve as a child's representative in the educational decision-making process in place of the child's parents or guardian. Such child shall be a child as defined in Section 10-76a (e) (1) of the General Statutes who requires special education or a child who may require special education.

(Effective December 1, 1982)

Sec. 10-94j-3. Qualifications

In order to be eligible for appointment as a surrogate parent, an individual shall meet the following requirements:

- (a) The individual shall be an adult;
- (b) The individual shall not be an employee of the public agency or the local board of education responsible for the education or care of that child; provided, however, that an individual shall not be deemed such an employee solely because he or she is paid to serve as a surrogate parent;
- (c) The individual shall have no other interest that may conflict with the best interests of the child;
- (d) The individual shall be knowledgeable about the educational system, special education laws, and the legal rights of the child in relation to the educational system; and
- (e) The individual shall be reasonably well acquainted with the cultural and language background of the child.

(Effective June 7, 1979)

Sec. 10-94j-4. Training procedures

Training procedures established by the Commissioner of Education shall include, but not be limited to, training in the following areas:

- (a) The nature and needs of different types of exceptionalities;
- (b) The availability of programs and programming options with respect to such exceptionalities;
- (c) The responsibilities and limitations of the role of the surrogate parent, including the following skills to ensure effective representation of the child:
 - (1) Becoming thoroughly acquainted with the child's history and other information

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contained in school and other reports relating to the child's educational needs;

(2) Complying with state and federal laws and regulations as to the confidentiality of all records and information pertaining to the child, to which he or she is privy;

(3) Using discretion in the necessary sharing of information with appropriate people for the purpose of furthering the interest of the child;

(4) Becoming familiar with the educational prescription for the child and, where appropriate, giving his or her approval;

(5) Reviewing and evaluating special education programs pertaining to the child as well as such other programs as may be available; and

(6) Initiating the mediation, hearing and/or appeal procedures and seeking qualified legal assistance when such assistance is in the best interest of the child;

(d) The sources and types of assistance available to the surrogate parent; and

(e) The legal rights of the child in all areas relating to the child's education.

(Effective June 7, 1979)

Sec. 10-94j-5. Determination of a child's need for a surrogate parent

In order to determine whether a child is in need of a surrogate parent, the commissioner of education shall undertake such investigation as may be necessary to determine that:

(A) The child is, by virtue of his or her age, entitled to receive special education;

(B) The child requires, or may require, special education; and

(C) The parent or guardian of the child is unknown or unavailable or the child is a ward of the state.

(Effective December 1, 1982)

Sec. 10-94j-6. Reports of a child's need for a surrogate parent

The commissioner of education shall disseminate such information as may be necessary to ensure that local and regional boards of education, and other agencies as appropriate, are informed of the surrogate parent program.

(a) Such information shall include a description of the requirements for eligibility for appointment of a surrogate parent.

(b) Such information shall include a statement of the responsibility to report to the commissioner the name of any child who may require a surrogate parent.

(c) Such information shall include a description of the type of data to be included in a report to the commissioner of a child who may require a surrogate parent. Such data shall include, but not be limited to, the following:

(1) The child's name, age and current address;

(2) If the child requires special education, a statement of the nature and severity of the child's handicapping condition as well as a copy of the child's current individualized education program;

(3) If the child may require special education, a copy of the referral form which was forwarded to the child's planning and placement team;

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(4) Such information as may be available concerning the whereabouts of the child's parents or guardian and, where appropriate, certification from the responsible agency that the child is a ward of the state; and

(5) The name and address of the agency making the report and, if different, the name and address of the agency responsible for educating the child.

(Effective December 1, 1982)

Sec. 10-94j-7. Appointment of a surrogate parent

Upon a determination that a child is in need of a surrogate parent, the commissioner of education shall appoint a surrogate parent in accordance with the following requirements:

(a) The individual appointed as surrogate parent shall meet such qualifications as are set forth in section 10-94j-3;

(b) The individual appointed as surrogate parent shall have successfully completed training as set forth in section 10-94j-4;

(c) Appointments shall take into consideration the places of residence of the child and surrogate parent as well as the particular expertise of the surrogate parent related to the handicapping condition, educational needs, age or other relevant factors;

(d) Written notice of the appointment shall be mailed to the child, to the surrogate parent, to the agency responsible for educating the child, and to the agency responsible for the care of the child; and

(e) The commissioner shall advise the child, the agency responsible for educating the child and the agency responsible for the care of the child that the commissioner may, not less than thirty (30) days prior to the child's eighteenth birthday, extend the appointment of a surrogate parent until such child graduates from high school or reaches age twenty-one years, whichever occurs first.

(Effective December 1, 1982)

Sec. 10-94j-8. Revocation of the appointment of a surrogate parent

The commissioner of education shall annually review the conduct and performance of each individual appointed as a surrogate parent. If it is found that in the performance of his or her duties the surrogate parent is not representing the best educational interest of the child, the commissioner shall:

(a) Send the individual written notice of revocation of his or her appointment as surrogate parent. Such notice shall include the following:

(1) The reason(s) for the revocation;

(2) The effective date of the revocation; and

(3) A statement informing the individual that if he or she objects to the revocation, written reasons for the objection shall be submitted to the commissioner within ten (10) calendar days of the date of the notice of revocation.

(b) Within twenty (20) days of the date of the notice of revocation and following consideration of any duly filed objections, send the individual:

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- (1) Written notice that his or her appointment as surrogate parent remains in effect; or
- (2) a final written notice of revocation.
- (c) If revocation is upheld, appoint a successor surrogate parent for the child.
- (d) In the event of revocation, written notice shall be given to the child, to the agency responsible for the education of the child and to the agency responsible for the care of the child.

(Effective December 1, 1982)