

Surrogate Parents and Foster Parents

Federal and State laws require the Board ensure the rights of a pupil 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 the parent (as defined according to N.J.A.C. 6A:14-1.3) cannot be identified or located after reasonable efforts or when an agency of the State of New Jersey has guardianship of the pupil.

Qualifications and Selection

The person serving as a surrogate parent shall have no interest that conflicts with those of the pupil he/she represents, and shall possess the knowledge and skills that ensure adequate representation of the pupil. The person serving as a surrogate parent may not be an employee of the Department of Education, this district, or a public or nonpublic agency that is involved in the education or care of the child.

When a pupil (who is or may be a pupil with a disability) is in the care of a foster parent residing in this district, the Principal, or his or her designee, shall contact the pupil's case manager at the Division of Youth and Family Services (DYFS), in the Department of Human Services, to determine the whereabouts of the parent/legal guardian, and to determine whether the parent/legal guardian retains the right to make educational decisions about the student. If the parent/legal guardian retains the right to make educational decisions, and the parent's whereabouts are known, the Principal, or his or her designee shall obtain all required consent from, and provide written notices to, the parent/legal guardian. If the district cannot ascertain the whereabouts of the parent/legal guardian, the Principal, or his or her designee, shall consult with the pupil's case manager at DYFS to assist in identifying an individual, including the foster parent, who may serve as a surrogate. The Board shall appoint a surrogate parent and the Principal, or his or her designee, shall obtain all required consent from, and provide written notices to, the appointed surrogate parent.

If the rights of the parent/legal guardian have been terminated, the Principal, or his or her designee, shall consult with the pupil's case manager at DYFS to determine whether foster parent meets the criteria established at N.J.A.C. 6A:14-1.3 in the definition of "parent" and can act on behalf of the pupil. If so, the Principal shall obtain all required consent from, and provide written notices to, the foster parent.

If it is determined the foster parent cannot serve as the parent on behalf of the pupil, the Board, in consultation with DYFS, shall appoint a surrogate parent and the Principal, or his or her designee, shall obtain all required consent from, and provide written notices to, the appointed surrogate parent.

Training

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

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1. Providing the surrogate parent a copy of Special Education Statutes (N.J.S.A. 18A:46 & 46A); Administrative Code – Special Education (N.J.A.C. 6A:14 & 14A); Administrative Code Pupil Records (N.J.A.C. 6:3-6); a list of low cost legal or other services relevant to a due process hearing; and due process rules (N.J.A.C. 1:6A);
2. Providing the surrogate parent an opportunity to meet with the Director of Special Services to discuss the rights of the surrogate parent and the applicable statutes, administrative codes, and federal laws;
3. Providing the surrogate parent adequate time to become familiar with the pupil and the pupil's disability through a review of the pupil's record;
4. Providing the surrogate parent an opportunity to confer with the pupil's case manager to discuss the pupil; and
5. Other information and resources to provide the surrogate parent the knowledge and skills to ensure adequate representation of the pupil.

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.

Adopted: April 11, 2005