

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(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. An agency of the State of New Jersey has guardianship of the pupil and that agency has not taken steps to appoint a surrogate parent for the pupil;
3. The pupil is a ward of the State and no State agency has taken steps to appoint a surrogate parent for the pupil;
4. No parent can be identified for the pupil 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 pupil's parent, and no State agency has taken steps to appoint a surrogate parent for the pupil; and
5. The pupil is an unaccompanied homeless youth and no State agency has taken steps to appoint a surrogate parent for the pupil.

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 pupil. 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 pupil.

The person serving as a surrogate parent:

1. Shall have no interest that conflicts with those of the pupil he/she represents;
2. Shall possess the knowledge and skills that ensure adequate representation of the pupil;
3. Shall not be replaced without cause;
4. Shall be at least eighteen years of age;

5. Shall 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. Shall 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 District Supervisor of the Child Study Team of his/her designee will determine whether there is a need for a surrogate parent for a pupil, contact any State agency that is involved with the pupil to determine whether the State has a surrogate parent appointed for the pupil, and will make reasonable efforts to appoint a surrogate parent for the pupil within thirty days of determining that there is a need for a surrogate parent for the pupil.

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, and the foster parent is not the parent of the pupil as defined in N.J.A.C. 6A:14-1.3, the District Supervisor of the Child Study Team of his/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 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 District, the District Supervisor of the Child Study Team of his/her 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 District Supervisor of the Child Study Team of his/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. If there is no foster parent, or if the foster parent is unwilling to serve as the pupil's parent pursuant to N.J.A.C. 6A:14-1.3, the District Supervisor of the Child Study Team of his/her designee shall consult with the pupil's case manager at DYFS to assist in identifying an individual to serve as a surrogate parent and the District Supervisor of the Child Study Team of his/her 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 pupil. The District Supervisor of the Child Study Team of his/her 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.
2. Providing the surrogate parent an opportunity to meet with the District Supervisor of the Child Study Team of his/her designee to discuss the rights of the surrogate parent and the applicable statutes, administrative codes, and Federal laws. The District Supervisor of the Child Study Team of his/her 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 pupil and the nature of 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:14-1 *et seq.*

Date: April 27, 2009

Legal References:

N.J.A.C. 6A:14-1 <i>et seq.</i>	Special Education
See particularly	
N.J.A.C. 6A:14-2.2	
N.J.A.C. 6A:32-7.1 <i>et seq.</i>	Student Records
20 U.S.C.A. 1400 <i>et seq.</i>	Individual with Disabilities Education Act

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34 C.F.R. 300 *et seq.*

Possible Cross References:

6171.4

Special Education