

What is a Surrogate Parent?

Federal and state laws and regulations give parent of children with disabilities the right to actively help shape and monitor their children's special education services and supports. When students do not have their own parents or legal guardian to represent them, school districts must appoint a surrogate parent to represent them.

Who can be a Surrogate Parent?

An individual who has no conflict of interest and has completed the Surrogate Parent Training Program.

When is a Surrogate Parent Needed?

- The district is unable to identify or locate (after reasonable efforts) a parent for a child with a disability;
- The child is a ward of the state;
- The child is an unaccompanied homeless youth; or
- The foster parent of a child is unwilling or unable to serve as a parent.
- ****When assigning a surrogate parent, the school district must give preferential consideration to a foster parent.

Who is Not Eligible to be a Surrogate Parent?

- Employees of the Texas Education Agency
- Employees of the school district
- Employees of any other agency that is involved in the education or care of the child (including DFPS)
- Person who has an interest that conflicts with the interest of the child

Wards of the State:

All children in the Department of Family Protective Services' managing conservatorship (by court order or through voluntary relinquishment under the Texas Family Code, 15.03) are considered "wards of the state." By law, they must be represented by a surrogate parent or the court's appointee in the education decision-making process.

Children in Residential Care Facilities (who are wards of the state) must have a surrogate parent appointed by the school, or an appointee assigned by the court. It is a conflict of interest for the facility to act as parent in the ARD/IEP process.

How Is a Surrogate Parent Chosen?

- The public school district determines which students are in need of a surrogate parent.
- The public school district selects and assigns a person who can serve as a surrogate parent.
- A judge may appoint a surrogate parent for a child who is a ward of the State.

What Are My Duties as a Surrogate Parent?

The surrogate parent is to interact with the school in the same manner that any parent would.

A surrogate parent must:

1. Be willing to serve in that capacity;
2. Exercise independent judgement in pursuing the child's interests;
3. Ensure that the child's due process rights under applicable state and federal laws are not violated;
4. Complete a training program within 90 days of assignment that complies with minimum standards established by TEA;
5. Visit the child and the child's school;
6. Review the child's educational records;
7. Consult with persons involved in the child's education, including teachers, caseworker, court-appointed volunteer, guardian ad litem, attorney ad litem, foster parent, and caretaker; and
8. Attend meetings of the child's ARD committee.

Surrogate Parent Assignment Timeline:

- A surrogate parent must be assigned within 30 days after determination that the student needs one
- Regardless of the 30 day requirement, if a surrogate parent is needed to represent the student before that timeline, one must be assigned
- A surrogate parent must complete an approved training program before the next scheduled ARD committee meeting, but not later than the 90th day after the date of initial assignment as a surrogate parent
- As soon as practicable after appointing a surrogate parent under this section, a school district shall provide written notice to the Department of Family and Protective Services of the appointment

Surrogate & Foster Parent Training

The training should provide an explanation of the provisions of federal and state laws, rules, and regulations relating to:

- the identification of a student with a disability.
- the collection of evaluation and re-evaluation data relating to a student with a disability.
- the ARD committee process.
- the development of an Individualized Education Program (IEP), including the consideration of transition services for a student who is at least 14 years of age.
- the determination of Least Restrictive Environment (LRE).
- the implementation of an IEP.
- the procedural rights and safeguards.
- where to obtain assistance in understanding the provisions of federal and state laws, rules, and regulations relating to the student with a disability; and
- the duties and responsibilities of surrogate parents.