

160-4-7-.11 SURROGATE PARENT.

(1) APPOINTMENT. In order to provide every child eligible for a public education with the protection of procedural due process, a surrogate parent shall be appointed by the LEA when:

(a) No parent can be identified; [34 C.F.R. § 300.519(a)(1)]

(b) The LEA, after reasonable efforts, cannot locate the parents; [34 C.F.R. § 300.519(a)(2)]

(c) The child is a ward of the State under the laws of Georgia; [34 C.F.R. § 300.519(a)(3)]; or

(d) 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)). [34 C.F.R. § 300.519(a)(4)]

(2) LEA DUTIES.

(a) Each LEA shall have procedures to determine that a child needs a surrogate parent and the assignment of an individual to act as a surrogate for the child. [34 C.F.R. § 300.519(b)]

(b) Each LEA responsible for educating children with disabilities shall maintain a list of eligible persons to serve as surrogate parents.

(3) 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 (4)(a)(i) and (4) of this section. [34 C.F.R. § 300.519(c)]

(4) CRITERIA FOR SELECTION OF SURROGATE PARENTS.

(a) Each LEA must ensure that a person selected as a surrogate parent -

(i) Is not an employee of the GaDOE, 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. [34 C.F.R. §300.519(d)]

(5) NON-EMPLOYEE REQUIREMENT; COMPENSATION. A person otherwise qualified to be a surrogate parent under paragraph (4) of this section is not an employee of the LEA solely because he or she is paid by the LEA to serve as a surrogate parent. [34 C.F.R. § 300.519(e)]

(6) 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 (4)(a)(i) of this section, until a surrogate parent can be appointed that meets all of the requirements of paragraph (4) of this section. [34 C.F.R. § 300.519(f)]

(7) SURROGATE PARENT RESPONSIBILITIES. The surrogate parent may represent the child in all matters relating to -

- (a) The identification, evaluation, and educational placement of the child; and
- (b) The provision of FAPE to the child. [34 C.F.R. § 300.519(g)]

(8) LIABILITY. Any individual appointed to act as a surrogate parent for a child with a disability under IDEA 2004 shall not be liable for any civil damages for any action or actions done while performing duty as a surrogate parent, except for acts or omissions to act constituting gross, willful, or wanton negligence. [O.C.G.A. Section 20-1-5]

(9) This rule shall become effective July 1, 2007.

Authority: O.C.G.A. § 20-1-5; 20-2-133; 20-2-152; 20-2-240.

Adopted: June 14, 2007

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