

# B

## Parents and Educational Surrogate Parents

### **Section B Forms**

Educational Surrogate Parent Data Sheet

Notice of Educational Surrogate Parent Assignment Form

## Definitions

**Educational Surrogate Parent:** A person appointed to represent a student with a disability in matters relating to the provision of a free appropriate public education, including the following:

- 1) Identification.
- 2) Evaluation.
- 3) Placement.

**Parent:** Means **one** of the following:

- 1) Any biological or adoptive parent whose parental rights have not been terminated or restricted in accordance with law.
- 2) A guardian generally authorized to act as the student's parent, or authorized to make educational decisions for the student, including a court-appointed temporary guardian.
- 3) A foster parent.
- 4) An individual with legal custody or an individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, or other adult who accepts full legal responsibility for the student and with whom the student lives.
- 5) An educational surrogate parent.
- 6) Any student of legal age, to mean a student who is A) is eighteen years of age; and B) has not had a guardian appointed by a court.
- 7) An educational appointed under 511 IAC 7-43-6 for students of legal age.

**Unless a judicial decree or order identifies a person or persons to act as the parent of a student or make educational decisions on behalf of a student, then the biological or adoptive parent must be presumed to be the "parent" for the purposes of Article 7 when the biological or adoptive parent is involved or attempting to be involved and when more than one party qualifies under 1-5.**

**Ward of the State:** A student who has been removed from the student's home for suspected or actual neglect or abuse, and the court has issued an order restricting or terminating the rights of the student's parent.



## **Guidelines to Determine the Parent for Special Education Purposes**

**Always** consider the biological or adoptive parent(s) as the parent(s) for purposes under Article 7 if the biological parent(s) or adoptive parent(s) is involved or attempting to be involved, and there is no court document indicating that the biological parents' rights are terminated or restricted.

### **Divorce Decree:**

1. If both parents retain the right to make educational decisions, then both parents are considered a parent under Article 7 with equal decision-making rights.
2. If one parent is designated as making educational decisions, that person is designated as the parent for special education decision-making purposes. However, both biological parents must still receive all required prior written notifications under Article 7 if whereabouts are known.

### **Foster Parent Court Document:**

1. If the biological parent's rights are not terminated or educationally restricted; his and/or her whereabouts are known; and he and/or she is attempting to act as the parent, use the biological parent as the parent, unless the foster court document specifically designates the foster parent(s) to make educational decisions.
2. If the biological parent's rights are terminated or educationally restricted, use the foster parent as the parent.
3. If the biological parents' whereabouts are unknown or biological parent is not attempting to act as the parent, then use foster parent as the parent.

**NOTE:** *DCS personnel are prohibited from serving as parent/guardian*

### **Other Circumstances with Court Document:**

1. If a specific person or persons has been designated through a judicial decree or court order to make educational decisions on behalf of a student, use the named person(s).
2. An individual with legal guardianship can serve as the parent, including a court-appointed temporary guardian.

### **No Court Document AND No Information about Biological Parent(s):**

An individual (relative or not) with whom the child is living and who accepts full legal responsibility for the student may be designated as a parent when the parents whereabouts are unknown.

**If none of the above apply, an Educational Surrogate Parent will be assigned.**



**Students of Legal Age:**

If a student is 18 years of age, the student will serve as the parent unless:

1. Guardianship has been established by the court and documentation provided to the school district, or
2. Student has provided a written request for an Educational Representative to make educational decisions for him/her; or is certified as unable to provide informed consent, under 511 IAC 7-43-6
  - a. An appointment of an Educational Representative may be as early as sixty calendar days prior to the student's eighteenth birthday.
  - b. A student who requests that an Educational Representative be appointed may request, in writing, that the appointment be revoked.
  - c. For an Educational Representative to be appointed without a written request by the student, two persons must certify in writing that the student is incapable of providing informed consent.
    - a. Informed consent means the student is unable to:
      - i. Understand on a continuing or consistent basis, the nature, extent, and probable consequences of a proposed educational program or option.
      - ii. Make a rational evaluation on a continuing or consistent basis of the benefits or disadvantages of a proposed educational decision or program as compared with the benefits or disadvantages of another proposed educational decision or program.
      - iii. Communicate such understanding in a meaningful way.
    - b. Persons who certify in writing that a student is incapable of providing informed consent must be one of the following:
      - i. A physician with an unlimited license
      - ii. A licensed nurse practitioner
      - iii. A Licensed clinical psychologist
      - iv. A licensed psychologist
      - v. A licensed school psychologist
      - vi. A licensed clinical social worker
    - c. Persons providing certification cannot be related to the student.
    - d. At least one of the persons providing certification cannot be employed by the public agency serving the student.

## **Guidelines to Appoint Educational Surrogate Parents**

The Adams Wells Special Services Cooperative (AWSSC):

1. Ensures the rights of a student are protected by appointing an educational surrogate parent
  - a. When a parent, as defined by 511 IAC 7-32-70, cannot be identified.
  - b. When, after reasonable efforts, the public agency cannot locate a parent.
  - c. When the student is a ward of the state, unless
    - a. The court order creating the wardship:
      - i. Permits the student to remain in the home; or
      - ii. Expressly reserves to a parent the authority to make decisions regarding the student's education or upbringing
    - b. The student is a ward of the department of correction
  - d. When the student is a homeless student who is not in the physical custody of a parent or guardian.
2. Has in place the following system for determining when a student is in need of an educational surrogate parent.
  - a. For initial referrals, AWSSC can request guardianship verification at the time permission to evaluate is requested. The evaluation process cannot proceed without proper verification.
  - b. For students who are already eligible for special education services, the building principal or designee will verify the child's family status and obtain applicable documentation.
  - c. Upon request by building principal, teacher of record, or designee, Adams Wells Special Services administrator will review applicable documentation to determine the need for an educational surrogate parent.
    - a. If needed, AWSSC will make reasonable efforts to ensure the assignment of an educational surrogate parent not more than thirty calendar days after AWSSC determined that a student needs an educational surrogate.
3. Educational Surrogate Parent Qualifications
  - a. Person assigned is not employed by the Indiana Department of Education, Adams Wells Special Services Cooperative, a local school district that the Cooperative serves, a public agency, or any other agency involved in the education or care of the student;
  - b. Has no personal or professional interest that conflicts with the interests of the student whom the educational surrogate parent represents;
  - c. Matches the student's cultural and linguistic background to the extent possible; and
  - d. Has knowledge and skills that ensure adequate representation of the student.
4. In the case of a homeless student who is not in the physical custody of a parent or guardian, appropriate staff of emergency shelters; transitional shelters; independent living programs; and street outreach programs may be appointed as temporary Educational Surrogate Parents until a nontemporary Educational Surrogate Parent can be appointed that meets all of the qualifications.

5. Education Surrogate Parents may represent the student in all matters relating to the following:

- a. Identification
- b. Evaluation and eligibility.
- c. Placement.
- d. Provision of a free appropriate public education (FAPE)

6. When a student with an Individual Education Program (IEP) attends an educational program outside the area served by Adams Wells Special Services Cooperative and is in need of an educational surrogate parent, Adams Wells Special Services Cooperative is responsible to ensure an Educational Surrogate Parent is appointed. The Educational Surrogate Parent may be from the area served by Adams Wells Special services Cooperative or from the geographic area where the educational program is located.

## **Procedures to Appoint Educational Surrogate Parents**

The Adams Wells Special Services Cooperative (AWSSC) maintains a list of Educational Surrogate Parents from which it makes its appointments. The list includes the qualifications of each candidate as captured by the **Educational Surrogate Parent Data Sheet**. The list is maintained at the AWSSC administrative office. AWSSC reserves the right to contract with another agency or organization to develop a pool of Educational Surrogate Parents.

1. When a school district determines that a student does not have a parent designated for special education purposes, the building principal, teacher of record, or designee will:
  - a. Verify the student's family status and obtain applicable documentation
  - b. Provide applicable documentation to AWSSC administrator and request appointment of Educational Surrogate Parent
2. AWSSC administrator will review applicable documentation to determine and confirm the need for an Educational Surrogate Parent.
3. If a student requires the appointment of an Educational Surrogate Parent, AWSSC will make reasonable efforts to ensure the assignment not more than thirty calendar days after the public agency determines that a student needs an Educational Surrogate Parent.
4. A **Notice of Educational Surrogate Parent Assignment Form** will be forwarded to the Educational Surrogate Parent and Teacher of Record. A copy will be maintained in the student's special education records at AWSSC.
5. Educational Surrogate Parents will be reappointed on an annual basis by AWSSC.
6. If circumstances arise that the student is no longer in need of an Educational Surrogate Parent, teacher of record, principal, or designee will notify AWSSC administrator. AWSSC administrator will then send an updated **Notice of Educational Surrogate Parent Assignment Form** to the Educational Surrogate Parent and Teacher of Record. A copy will be maintained in the student's special education records at AWSSC.



## Educational Surrogate Parent Data Sheet

Name: \_\_\_\_\_

Address: \_\_\_\_\_ Contact Phone: \_\_\_\_\_

\_\_\_\_\_ Email: \_\_\_\_\_

School Corporation of Residence \_\_\_\_\_

Are you at least Eighteen (18) years of Age? \_\_\_\_\_ Yes \_\_\_\_\_ No

Cultural/Ethnic Background \_\_\_\_\_ American Indian/Native Alaskan  
\_\_\_\_\_ Asian/Pacific Islander  
\_\_\_\_\_ Hispanic  
\_\_\_\_\_ Black American  
\_\_\_\_\_ White (non-Hispanic)  
\_\_\_\_\_ Other

Employer \_\_\_\_\_

Is your employer involved in any way in the physical care of education of children? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, please specify how:

\_\_\_\_\_  
\_\_\_\_\_

Educational Background \_\_\_\_\_

Describe your knowledge of and/or current or past involvement in special education:

\_\_\_\_\_

Other than English, please list any other language that you are able to use for communication.

\_\_\_\_\_

I certify that the above information is accurate to the best of my knowledge.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature





## Notice of Educational Surrogate Parent Assignment

Date: \_\_\_\_\_

Dear \_\_\_\_\_,

**This notice confirms your acceptance of assignment as Educational Surrogate Parent for:**

Student \_\_\_\_\_ Date of Birth \_\_\_\_\_

Placement School \_\_\_\_\_ Home School \_\_\_\_\_

Grade \_\_\_\_\_ Teacher of Record \_\_\_\_\_

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### Surrogate Parent Information

Surrogate Parent Name \_\_\_\_\_

Email: \_\_\_\_\_ Contact Phone: \_\_\_\_\_

New Assignment \_\_\_\_\_ Reassignment \_\_\_\_\_

Date Assigned \_\_\_\_\_

**If it becomes necessary for you to terminate your assignment, please notify the Assistant Director of Special Education at (260) 824-5880 as soon as possible so that a replacement may be found. Thank you for your time and commitment.**

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### Complete Upon Termination of Assignment

Date Released \_\_\_\_\_

Are you willing to remain on the list of interested ESP's? \_\_\_\_\_ Yes \_\_\_\_\_ No