

# Appointment of Surrogate Parents for Special Education and Early Intervention Services

---

May 10, 2023

*Note: This document supersedes Surrogate Parents and Special Education Decision-Making Guidance (2015) to provide updated guidance.*



Michigan Department of Education



## Table of Contents

Appointment of Surrogate Parents for Special Education and Early Intervention Services.....	3
Introduction.....	3
Federal and State Requirements .....	4
Part B in Michigan: Ages 3-26 .....	4
Part C in Michigan: Birth to Three .....	4
Surrogate Parent Appointment Requirements .....	6
Part B and Part C in Michigan: Birth to 26 .....	6
Residential Placements .....	7
Wards of the State .....	7
Unaccompanied Homeless Youth .....	8
Age of Majority .....	9
Guardianship of Adult Students .....	9
Responsibilities of Public Agency .....	9
Appointing a Surrogate Parent .....	10
Surrogate Parent Qualifications .....	11
Recruiting Surrogate Parents .....	12
Collaboration with Other Agencies .....	13
Training of Surrogate Parents .....	13
Surrogate Parents Responsibilities .....	14
Surrogate Parent Rights.....	15
Length of a Surrogate Parent Appointment .....	16
Resources .....	16

# Appointment of Surrogate Parents for Special Education and Early Intervention Services

---

## Introduction

---

The Individuals with Disabilities Education Act (IDEA) requires states to ensure a child without a parent or guardian, as defined in the IDEA, is appointed a surrogate parent to make educational and early intervention decisions for the child. This guidance document is intended to assist public agencies, in the development and implementation of surrogate parent procedures, consistent with IDEA and the Michigan Administrative Rules for Special Education (MARSE).

A public agency is defined by Part B of the IDEA regulations at 34 CFR §300.2(b): Public agencies within the State. The provisions of this part—

- Apply to all political subdivisions of the State that are involved in the education of children with disabilities, including:
  - The State educational agency (SEA).
  - Local educational agencies (LEAs), educational service agencies (ESAs) (known in Michigan as Intermediate School Districts), and public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA.
  - Other State agencies and schools (such as Departments of Mental Health and Welfare and State schools for children with deafness or children with blindness).
  - State and local juvenile and adult correctional facilities.

The Part C regulations define a public agency at 34 CFR §303.30: Public agency. As used in this part, public agency means the lead agency and any other agency or political subdivision of the State.

A public agency is required to appoint a surrogate parent when no parent, as defined by the IDEA, can be identified or located or when a child is a ward of the state. The role of the surrogate parent is to represent the child in all matters relating to special education or early intervention, including the identification, evaluation, educational placement, and provision of a free appropriate public education (FAPE).

Please note that the term “child” is used throughout this document to be consistent with the IDEA and to recognize the obligations cover both students and children who are suspected to have a disability or are already eligible for special education and services under either Part B or Part C of the IDEA.

---

## Federal and State Requirements

---

### Part B in Michigan: Ages 3-26

To fully understand when a surrogate parent assignment is required, the definition of a parent, according to the IDEA, must be understood. According to 34 CFR §300.30, the IDEA defines a parent as:

- A biological or adoptive parent of a child
- A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
- A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
- An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
- A surrogate parent who has been appointed in accordance with 34 CFR §300.519.

The biological or adoptive parent, when attempting to act as the parent under this part, and when more than one party is qualified to act as a parent, must be presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child. 34 CFR §300.30(b)(1)

When a student turns 18, all parental rights transfer to the student, unless a legal guardian has been appointed through court proceedings. Regarding specific surrogate parent state requirements, the MARSE states each public agency shall appoint persons to serve as surrogate parents, in accordance with 34 CFR §300.519. The MARSE does not identify parameters for appointing persons to serve as surrogate parents but instead defaults to implementing 34 CFR §300.519.

The IDEA Part B requirements regarding surrogate parents, 34 CFR §300.519, will be referenced throughout this guidance document, in alignment with each section.

### Part C in Michigan: Birth to Three

Part C of the IDEA also addresses requirements for appointing a surrogate parent for an infant or toddler, when determined necessary. 34 CFR §303.422 sets forth the criteria for selecting surrogate parents under Part C. Public agencies must follow Part C requirements for all children ages birth to three who are eligible for Part C, with or without Michigan mandatory special education services.

As with Part B, an understanding of the definition of parent within the IDEA Part C regulations is critical to determining when it becomes necessary to appoint a

surrogate parent for an infant or toddler. According to 34 CFR §303.27, the IDEA Part C defines a parent as:

- A biological or adoptive parent of a child;
- A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent.
- A guardian generally authorized to act as the child's parent, or authorized to make early intervention, educational, health or developmental decisions for the child (but not the State if the child is a ward of the State).
- An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare or
- A surrogate parent who has been appointed in accordance with 34 CFR §303.422.

The biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational or early intervention service decisions for the child.

If a judicial decree or order identifies a specific person or persons to act as the "parent" of a child or to make educational or early intervention service decisions on behalf of a child, then the person or persons must be determined to be the "parent" for purposes of Part C of the Act. However, if the party identified by the judicial decree or order is an early intervention service provider or a public agency which provides any services to the child or any family member of that child, that early intervention service provider or public agency may not act as the parent for that child.

The United States Department of Education Office of Special Education Programs (OSEP) provides clarification on what is meant by "attempting to act as parent" by stating: "An individual may "attempt to act as a parent" under the IDEA in many situations, such as providing consent for an evaluation and assessment, attending an Individualized Family Services Plan (IFSP) Team meeting, and filing a complaint. Identifying all the circumstances under which an individual may "attempt to act as a parent" would be difficult and is unnecessary." Federal Register / Vol. 76, No. 188 / September 28, 2011 / Rules and Regulations p. 60159. Essentially, an individual is "attempting to act as a parent" when they attempt to take or refuse any of the actions specified in the regulations as a right or responsibility of a parent.

OSEP further clarifies when determining the appropriate individuals who may act as a "parent" under Part C of the IDEA in those difficult situations when more than one individual is attempting to act as a parent under these regulations and one of

those individuals attempting to act as parent is a biological or adoptive parent, then this definition recognizes the biological or adoptive parent as presumed to be the parent for purposes of making decisions for the child unless those rights have been legally terminated or modified. Federal Register / Vol. 76, No. 188 / Wednesday, September 28, 2011 / Rules and Regulations p. 60159.

The IDEA Part C requirements regarding surrogate parents, 34 CFR §303.422, will be referenced throughout this guidance document, in alignment with each section. The Part C regulations closely mirror the Part B regulations in the areas impacting this guidance document. Differences will be noted where applicable.

### **Surrogate Parent Appointment Requirements**

In accordance with 34 CFR §300.519(a), each public agency must ensure that the rights of a child are protected when:

- No parent (as defined in 34 CFR §300.30) can be identified.
- The public agency, after reasonable efforts, cannot locate a parent.
- The child is a ward of the State under the laws of that State or
- 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)).

In accordance with Part C of the IDEA at 34 CFR §303.422(a) each lead agency or other public agency must ensure that the rights of a child are protected when:

- No parent (as defined in 34 CFR §303.27) can be identified.
- The lead agency or other public agency, after reasonable efforts, cannot locate a parent or
- The child is a ward of the State under the laws of that State.

### **Part B and Part C in Michigan: Birth to 26**

Any child who is suspected to have a disability or who has a disability and meets one or more of the conditions above, under 34 CFR §300.519(a) or 34 CFR §303.422(a), will require a surrogate parent. Although the IDEA does not define reasonable efforts to locate a parent, there must be multiple documented attempts to locate a parent(s), using various modalities, over a justifiable length of time.

Administrators should familiarize themselves with the definition of a parent, as defined in the IDEA, and, through the development or adoption of policies and procedures, determine an effective and efficient way to determine whether parents of children who are wards of the state have retained their educational decision-making rights. According to OSEP, there is no statutory authority to permit the appointment of a surrogate parent when a parent is either unable or unwilling to attend a meeting in which a decision is made relating to a child's educational placement. In section 615(b)(2) of the Act, a public agency does not have the

authority to appoint a surrogate parent where a child's parent is available or can be identified and located after reasonable efforts, but refuses, or is unable, to attend a meeting or otherwise represent the child. Federal Register; Volume 71; Number 156; Monday, August 14, 2006, page 46689.

A surrogate parent may never (emphasis) be appointed for a child when there is another person who meets the definition of a parent at 34 CFR §300.30(a) or 34 CFR §303.422(a) and whose rights to make educational decisions for the child have not been terminated. A surrogate parent may not be appointed because school staff disagrees with the decision of the child's parent.

Recognizing the complexity of parental status and considerations for surrogate appointments, collaboration with outside agencies, such as the Michigan Department of Health and Human Services (MDHHS), to obtain information regarding parent rights and location of parents, is encouraged, prior to appointing a surrogate parent. Additionally, administrators may consult with their legal counsel, as needed, to identify who has been granted legal authority to make educational decisions for the child.

The public agency must ensure the confidentiality of personally identifiable data when collaborating with other agencies. The privacy of information and records collected or maintained by public agencies must be protected in accordance with 34 CFR §§300.610 through 300.627, and the [Family Educational Rights and Privacy Act \(FERPA\)](#).

### **Residential Placements**

When a child is in a residential placement the public agency will need to review each case individually. The public agency should conduct a careful review of documents and coordinate with any outside agencies that are involved with the education or care of the child, to determine whether the parents retain legal authority to make educational decisions for the child or whether any other person has been appointed to make educational decisions for the child. It is also important to note in these circumstances that a ***surrogate parent cannot be an employee of any agency involved in the education or care of the child*** including, MDHHS, [Child Placing Agency](#) and [Child Caring Institution](#) employees.

### **Wards of the State**

In accordance with 34 CFR §300.519(c) and 34 CFR §303.422(c), 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 34 CFR §§300.519(d)(2)(i) and 300.519(e) or 34 CFR §§303.422(d)(2)(i) and 303.422(e).

A ward of the State, as defined by Part B of the IDEA in 34 CFR §300.45 and Part C of the IDEA in 34 CFR §303.37, is a child who, as determined by the State where the child resides, is:

- A foster child
- A ward of the State\*; or
- In custody of a public child welfare agency.

Exception: Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent in 34 CFR §300.30 or 34 CFR §303.27.

\*Keep in mind there are various forms of wardship for children. Determining the legal status of the parent or other individuals and their right to make educational decisions will need to be made on an individual basis. The public agency must carefully review any court orders before appointing a surrogate parent.

### **Unaccompanied Homeless Youth**

In accordance with 34 CFR §300.519(f), in the case of a child who is a 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 34 CFR §300.519(d)(2)(i), until a surrogate parent can be appointed that meets all the requirements of 34 CFR §300.519(d). The term homeless child or youth includes those who:

- Share the housing of other persons due to loss of housing, economic hardship, or similar reasons.
- Live in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations.
- Live in emergency or transitional shelters.
- Are abandoned in hospitals.
- Live in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings.
- Are migratory children who otherwise fit the definition of homelessness.
- Have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings.

An unaccompanied homeless youth according to (Title 42, United States Code, Section 11434a(6)). includes children and youth who:

- The youth's living arrangement meets the Act's definition of homeless and;
- The youth is not in the physical custody of a parent or guardian.



Temporary surrogate parents must be free of any personal or professional conflict of interest with the child's interest and must possess knowledge and skills that ensure adequate representation of the child.

### **Age of Majority**

For all children, the age of majority in Michigan is 18. When a student reaches the age of 18, the student can make their own educational decisions unless a legal guardian has been appointed by court proceedings to make educational decisions or the student has granted another person a power of attorney to make educational decisions. When a student reaches the age of majority, a surrogate parent is no longer necessary.

### **Guardianship of Adult Students**

When a guardian has been appointed for a student who is 18 years or older, the terms of guardianship need to be reviewed when making decisions about the appointment of the surrogate. A guardian is a person appointed by a court and given power and responsibility to make certain decisions about the care of another individual. The judge will tailor each guardianship to the needs of the individual.

---

## **Responsibilities of Public Agency**

---

In accordance with Part B of the IDEA at 34 CFR §300.519(h), the state agency must make reasonable efforts to ensure the appointment of a surrogate parent not more than 30 days after a public agency determines the child needs a surrogate parent. The Part C regulations at 34 CFR §303.422(g) assign this same responsibility and timeline to the lead agency, which in Michigan is the Michigan Department of Education (MDE). MDE delegates this role to the ISD as the Part C local lead agency.

Each ISD, under their general supervisory responsibility of Part B (34 CFR §300.149) and as the sub-recipient to the federal IDEA grant, must ensure their member districts, including public school academies, which are the public agency responsible for the education of a child who does not have a parent as defined under the IDEA, have procedures in place for appointing surrogate parents, when needed. Each ISD Plan or interagency agreement must provide a description of how the pool of surrogate parents is maintained and how appropriate training is provided to potential surrogate parents. The public agency that maintains the surrogate parent pool, must establish procedures for obtaining a surrogate parent from the surrogate parent pool when the public agency has identified a child who requires a surrogate parent to be appointed.

According to the IDEA, public agencies are responsible for appointing surrogate parents when needed. The public agency responsible for the identification and appointment of a surrogate parent is the public agency responsible for providing the child's education or early intervention services. Although a district, as the public agency responsible for providing a child's education, may obtain the assistance of an ISD to identify and appoint a surrogate parent, the obligation to ensure the appointment of a surrogate parent remains with the district.

In accordance with 34 CFR §300.519(b), the duties of a public agency include the assignment of an individual to act as a surrogate for the parents. This must include a method for:

- Determining whether a child needs a surrogate parent; and
- Assigning a surrogate parent to the child.

Part C of the IDEA at 34 CFR §303.422(b)(1) mirrors this requirement, except for allowing for this responsibility to be fulfilled by either the lead agency or other public agencies. Part C also adds that when implementing this provision for children who are wards of the State or placed in foster care, the lead agency must consult with the public agency that has been assigned care of the child.

In the absence of any parent, as defined by the IDEA, it is the legal obligation of the public agency responsible for educating the child to appoint a surrogate parent. Although a member district may contract with an ISD or another entity to maintain a pool of surrogate parents and to provide training to surrogate parents, the member district, as the public agency, remains responsible.

Anyone, including caseworkers or probation officers, can request a surrogate parent be assigned when it is believed a child is suspected of having a disability or the child has a disability and needs a surrogate parent. If the IDEA regulations for determining when a surrogate parent is required are not met, then the public agency responsible for educating the child may not appoint a surrogate parent.

---

## **Appointing a Surrogate Parent**

---

Most children who are suspected of having or who have a disability, will have an easily identifiable and locatable parent, as defined under law. When a child is initially referred for a special education or early intervention evaluation, efforts to locate the parent should begin immediately, because the parent must participate in many timeline-driven decisions related to consent, evaluation, determination of eligibility, and possible educational placement, provision of early intervention services, and provision of a FAPE.

For parents whose educational rights have been revoked due to termination of parental rights, the public agency should work closely while maintaining confidentiality with their local Education Points-of-Contact in their MDHHS county office to obtain required documentation, confirming the parents no longer have educational decision-making rights. A list of contacts is maintained on [MDHHS's website](#). Further, public agencies are encouraged to collaborate with MDHHS in identifying a surrogate parent for the child.

For parents, whose educational rights are intact and whose whereabouts are known, reasonable efforts to contact must be documented. Attempts to contact and/or locate include, but are not limited to, telephone calls, letters, and visits to the parent's last known address and/or place of employment.

The public agency responsible for educating the child should continue to send notices to the parent whose educational rights are intact. When there is a lack of response after reasonable attempts, the district may need to collaborate with MDHHS and/or legal counsel to determine the appropriate steps necessary to support the educational needs of the child.

### **Surrogate Parent Qualifications**

Surrogate parents must be at least 18 years old. Surrogate parents must be willing to be trained to act as an educational representative. The surrogate parent must be screened using the same procedures the public agency uses for school volunteers, such as a criminal background check. Additional suggested qualifications include being a resident of Michigan, residing in proximity of the public agency to be available to make educational decisions, also having strengths that match the needs of the child. Consideration should be given to the possible length of time a surrogate parent may be needed to maximize continuity and consistency with the child.

In accordance with 34 CFR §300.519(d) of Part B of the IDEA and 34 CFR §303.422(d) of Part C of the IDEA, the public agency may select a surrogate parent in any way permitted under State law. Public agencies must ensure that a person selected as a surrogate parent:

- Is not an employee of the State Educational Agency (SEA), the LEA, or any other agency that is involved in the education or care of the child.
- Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and
- Has knowledge and skills that ensure adequate representation of the child.

Part C regulations at 34 CFR §303.422(d) additionally specifies that the appointed surrogate parent may not be an employee of the lead agency or any other public agency or early intervention service provider that provides early intervention

services, education, care, or other services to the child or family member of the child.

In accordance with 34 CFR §300.519(e) and 34 CFR §303.422(e) a person otherwise qualified to be a surrogate parent is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

A public agency may employ a person solely to serve in the capacity of a surrogate parent. In this case, the person is allowed to serve as the surrogate, and conflict of interest does not apply.

A surrogate parent must have the appropriate knowledge and skills required to adequately represent a child who does not have parental representation in educational matters, and who is suspected of having a disability or who has a disability and receives special education and related services or early intervention services.

A surrogate parent may not be an employee of a child welfare agency (including a case manager, an employee of a private child welfare agency with whom a public agency contracts, a group home parent, childcare institutional staff/owner, or staff in a residential facility), or an employee of an educational agency that is involved with the child (such as the child's teacher, a board member, or a school district employee).

### **Recruiting Surrogate Parents**

When recruiting a surrogate parent, the public agency responsible for educating the child should give first preference to a relative, friend, or court-appointed advocate. If none of these individuals are willing or able to act as a surrogate parent, then the public agency must be prepared to appoint another qualified adult. The MDHHS may be a source for identifying a surrogate parent who already knows and has a relationship with the child.

ISDs and/or member districts, as determined in ISD plans, are expected to maintain a pool of surrogate parents who are trained and able to be appointed when a child does not have someone in their life who can serve in the role of surrogate parent.

Rule 340.1838 requires that ISDs maintain a Parent Advisory Committee (PAC) composed of parents of children with disabilities. Members of this PAC could serve as surrogate parents.

Appropriate community groups can also be contacted for the purpose of recruiting surrogate parents. Such groups should be given a clear explanation of the roles and responsibilities of surrogate parents, as well as an overview of the time

commitments. Volunteers must be willing to be trained to act as educational representatives for children requiring a surrogate parent. Examples of community groups include the following:

- parent advisory committee members
- Big Brothers/Big Sisters
- local parent-teacher organizations
- local Arc organizations
- retired educators' groups
- service clubs
- faith-based organizations

### **Collaboration with Other Agencies**

Nothing in the IDEA prohibits a public agency from collaborating with judges and advocates in establishing a process for appointing surrogate parents. The district should inform all persons and agencies responsible for the residential care and education of the child of the surrogate parent's appointment. The district must ensure the confidentiality of the child's information is maintained according to the FERPA.

Most children who will require surrogate parents are those under the jurisdiction of a county or state agency. Public agencies responsible for the education of the child who may need a surrogate parent are encouraged to collaborate with child welfare agencies and to coordinate efforts to appoint surrogate parents. Since the child welfare agencies are responsible for the child's care, it is helpful if the agency staff and the public agency communicate and collaborate in identifying when a surrogate parent is required and in the appointment of the surrogate parent.

Part C of the IDEA at 34 CFR §303.422(b)(2) requires that when assigning an individual to act as a surrogate parent to children who are wards of the State or placed in foster care, the lead agency must consult with the public agency that has been assigned care of the child.

### **Training of Surrogate Parents**

Although districts, which are the public agency responsible for educating the child, are responsible for the recruitment, selection, training, and appointment of surrogate parents, ISDs may provide support in performing these functions, including the training. The surrogate parent training should include information to provide the surrogate parent with the knowledge and skills to adequately represent the child in all aspects of the special education and early intervention process. The surrogate parents should be trained regularly to ensure they have adequate knowledge to serve in this capacity. The training must be comprehensive and, at a minimum, is recommended to include the following areas:

- Legal Rights and Responsibilities
  - Introduction to the IDEA and the MARSE, including surrogate provisions and public agency responsibilities.
- Role of the Surrogate Parent
  - Rights and responsibilities of the surrogate parent.
  - Developing relationships with the child and early intervention or school staff.
  - Obtaining and reviewing child records (confidentiality).
  - Discussion of resources available to support surrogate parents.
- Special Education and Early Intervention Process
  - Eligibility—Understanding the child’s disability and unique needs.
  - Evaluations—Preparing for the evaluation process and development of the individualized education program (IEP) or Individual Family Service Plan (IFSP), including surrogate parent input in the evaluation.
  - IEP Content—Present level of academic achievement and functional performance, annual goals, supplementary aids and related services, programs, positive behavior supports, assistive technology, and transition services.
  - IFSP Content – Present levels of development, measurable goals and outcomes, early intervention services, and transition plan.
  - Understanding student achievement data.
  - Special education discipline protections.
- Procedural Safeguards and Dispute Resolution Options.
  - Overview of the IDEA and state procedural safeguards.
  - Mediation and other dispute resolution alternatives.
  - State complaint and due process procedures.

Once a surrogate parent is trained, the individual can be included in the pool of qualified surrogate parents.

---

## **Surrogate Parents Responsibilities**

---

In accordance with 34 CFR §300.519(g), the surrogate parent may represent the child in all matters relating to:

- The identification, evaluation, and educational placement of the child.
- The provision of FAPE to the child.

The Part C regulations at 34 CFR §303.422(f) state that a surrogate parent has the same rights as a parent for all purposes under Part C of the IDEA.

The surrogate parent’s role is to represent the rights of a child who is suspected of having a disability or who has a disability in all educational matters related to the

provision of a FAPE or early intervention services. The surrogate parent's rights within the educational or early intervention process are the same as a birth or adoptive parent, with identical guarantees for participation in decision-making and procedural safeguards. A surrogate parent acting on the child's behalf for the purposes of special education or early intervention services is not authorized to act as a parent in any other sense.

Since a surrogate parent may represent a child in all matters related to the special education or early intervention process, the surrogate parent should learn as much as possible about the child with a disability to appropriately represent the rights of the child throughout the special education or early intervention process.

---

## Surrogate Parent Rights

---

Once appointed, the surrogate parent has all the procedural rights provided to the parent in the IDEA, including the right to:

- Access the child's educational and early intervention records. 34 CFR §§300.501, 300.613, and 303.405
- Review and inspect any records collected, maintained, and used by an agency to make decisions affecting the child's educational program or early intervention services 34 CFR §§300.501, 300.613, and 303.405
- Request an amendment of a child's records, as indicated in 34 CFR §§300.618 and 303.410.
- Consent to the release of the child's educational or early intervention records, as indicated in 34 CFR §§300.622, 303.405, and 303.414.
- Represent an eligible or suspected-to-be eligible child in all matters related to suspension and expulsion, including manifestation determination reviews, decisions involving changes of placement, and the provision of procedural safeguards. 34 CFR §§300.530 through 300.536
- A surrogate parent may engage in dispute resolution options on behalf of the child, including:
  - IEP or IFSP facilitation; mediation; 34 CFR §§300.506 and 303.431
  - filing a state complaint, pursuant to 34 CFR §§300.151 through 300.153, 303.432 through 303.434; or
  - filing a due process complaint, consistent with 34 CFR §§300.500 through 300.520, 303.440 through 303.449.

---

## Length of a Surrogate Parent Appointment

---

The surrogate parent may represent the child until any of the following circumstances are determined:

- The child is no longer in need of special education or early intervention services.
- The child reaches the age of majority.
- Another person has been granted authority to make educational decisions.
- The right of the parent or guardian to make educational decisions for the minor is restored.
- The person is not properly performing the duties of a surrogate parent; or
- The person has an interest that conflicts with the interests of the child.
- The person resigns from the appointment.

It is important the public agency document, implement, and enforce the termination or resignation of a surrogate parent appointment.

When a student moves to a new school district the public agency that appointed the surrogate parent is encouraged to communicate with the surrogate parent, child, and receiving district. In some cases, it may be appropriate for the surrogate parent appointment to continue. In that case, the receiving district would need to complete any required paperwork to officially appoint the surrogate parent to represent the child in the new district.

When a surrogate parent appointment will not continue in the new district, then no later than 30 calendar days from enrollment a written termination of the surrogate parent appointment should be documented and communicated to the receiving district so a new surrogate parent can be appointed in a timely manner.

---

## Resources

---

- [Individuals with Disabilities Education Act Regulations, Part B](#)
- [Individuals with Disabilities Education Act Regulations, Part C](#)
- Office of Special Education Information Line 1-888-320-8384 or [mde-ose@michigan.gov](mailto:mde-ose@michigan.gov)
- [Michigan Department of Health and Human Services: Child Foster Care Manual: Educational Services](#)