

POLICY

**SPECIAL EDUCATION**

**SURROGATE PARENTS AND FOSTER PARENTS**

The Holmdel Township Board of Education shall make every effort to ensure the rights of all students are protected through the provision of an individual to act as surrogate for the parent and assume all parental rights under N.J.A.C. 6A:14 et seq., Special Education, when:

1. The parent as defined by N.J.A.C. 6A:14-1.3 cannot be identified;
2. The parent cannot be located after reasonable efforts;
3. A State agency has guardianship of the student or the student is determined a ward of the State and, if the student is placed with a foster parent, the foster parent declines to serve as the student's parent; or
4. The student is an unaccompanied homeless youth as defined in § 725(6) of the McKinney-Vento Homeless Assistance Act.

**Qualifications and Selection**

An appointed surrogate shall assume all parental rights under N.J.A.C. 6A:14, to make educational decisions, and the District shall obtain all required consent from and provide written notices to the surrogate. The surrogate shall be at least eighteen (18) years of age and, if compensated for serving in such capacity, have successfully passed a criminal history review pursuant to N.J.S.A. 18A:6-7.1. The surrogate shall have no interests that conflict with those of the student he or she represents, and shall possess the knowledge and skills that ensure adequate representation. The surrogate may not be an employee of the Department of Education, the District, or a public or nonpublic agency that is involved in the education or care of the child. Once appointed, the surrogate may not be replaced without cause.

When a student, who is or may be a student with a disability, is in the care of a foster parent residing within the confines of the District, a District representative shall contact the student's case manager at the Division of Youth and Family Services (DYFS) in the Department of Human Services in order to determine whether the parent or legal guardian retains the right to make educational decisions and to determine the whereabouts of the parent or legal guardian.

If the parent or legal guardian retains the right to make educational decisions for the student and the parent's whereabouts are known to the Board, the District shall obtain all required consent from and provide written notices to the parent or legal guardian. If the District cannot ascertain the whereabouts of the parent or legal guardian, the District shall consult with the student's case manager at DYFS to assist in identifying an individual, including the foster parent, who may serve as a surrogate. The Board shall appoint the surrogate parent and the District shall thereafter obtain all required consent from and provide written notices to the appointed surrogate.

If the rights of the parent/legal guardian have been terminated, the District Board of Education shall consult with the student's case manager at DYFS to determine whether the foster parent meets the criteria established at N.J.A.C. 6A:14-1.3 in the definition of "parent" and can act on behalf of the student. If so, the District Board of Education shall obtain all required consent from and provide written notices to the foster parent.

### Training

The District shall provide training for surrogates in order to ensure that they possess the requisite knowledge and skill to ensure adequate representation of the student. Such training will include, but may not be limited to, the provision of:

1. a copy of applicable regular and special education statutes and regulations (including N.J.S.A. 18A:46 & 46A and N.J.A.C. 6:3-6, 6A:14 & 14A); a list of low cost legal or other services relevant to a due process hearing; and due process rules and regulations (N.J.A.C. 1:6A);
2. an opportunity for the surrogate to meet with the District to discuss his or her rights and the applicable statutes, administrative codes, and federal laws;
3. adequate time for the surrogate to become familiar with the student through a review of the student's record;
4. an opportunity for the surrogate to confer with the student's case manager to discuss the student; and
5. other information and resources to provide the surrogate the knowledge and skills to ensure adequate representation of the student.

### 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.

**Source:** Regular Board Meeting

**Date:** April 29, 2009

**Legal References:** N.J.A.C. 6A:14-2.2