

ARKANSAS DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND RELATED SERVICES
15.00 SURROGATE PARENTS
July 2008

15.01 GENERAL

Each public agency must ensure that the rights of a child are protected when -

- 15.01.1 No parent (as defined in 34 CFR 300.30 and § 2.49 of these regulations) can be identified;
- 15.01.2 The public agency, after reasonable efforts, cannot locate a parent; or
- 15.01.3 The child is a ward of the State of Arkansas under the laws of this state; or
- 15.01.4 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)).

15.02 DUTIES OF PUBLIC AGENCY

The duties of a public agency under 34 CFR 300.519(a) and § 15.01 of this part includes the assignment of an individual to act as a surrogate for the parents. This must include a method -

- 15.02.1 For determining whether a child needs a surrogate parent; and
- 15.02.2 For assigning a surrogate parent to the child.

15.03 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 34 CFR 300.519(d)(2)(i) and (e) and 15.04.2.1 and 15.05 of this section.

15.04 CRITERIA FOR SELECTION OF SURROGATES

- 15.04.1 The public agency may select a surrogate parent in any way permitted under State law.

15.04.2 Public agencies must ensure that a person selected as a surrogate -

15.04.2.1 Is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child;

15.04.2.2 Has no personal or professional interest that conflicts with the interest of the child he or she represents; and

15.04.2.3 Has knowledge and skills that ensure adequate representation of the child.

15.05 NON-EMPLOYEE REQUIREMENT; COMPENSATION

A person who otherwise qualifies to be surrogate parent under 34 CFR 300.519(d) and §15.03 of this part is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

15.06 UNACCOMPANIED HOMELESS YOUTH

In the case 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 34 CFR 300.519(d)(2)(i), until a surrogate parent can be appointed that meets all the requirements of paragraph 34 CFR 300.519(d).

15.07 RESPONSIBILITIES

The surrogate parent may represent the child in all matters relating to -

15.07.1 The identification, evaluation, and educational placement of the child; and

15.07.2 The provision of FAPE to the child.

15.08 SEA RESPONSIBILITY

The SEA must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.