

Title 6. Education

Chapter I. Division of Elementary and Secondary Education

Subchapter E. Special Education

Part 130. Procedural Requirements and Program Standards

Subpart 15. Surrogate Parents

6 CAR § 130-1501. Generally.

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

- (1) No parent (as defined in 34 C.F.R. § 300.30 and 6 CAR § 130-246) can be identified;
- (2) The public agency, after reasonable efforts, cannot locate a parent;
- (3) The child is a ward of the State of Arkansas under the laws of this state; or
- (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)).

6 CAR § 130-1502. Duties of public agency.

(a) The duties of a public agency under 34 C.F.R. § 300.519(a) and 6 CAR § 130-1501 include the assignment of an individual to act as a surrogate for the parents.

(b) This must include a method for:

- (1) Determining whether a child needs a surrogate parent; and
- (2) Assigning a surrogate parent to the child.

6 CAR § 130-1503. 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 34 C.F.R. § 300.519(d)(2)(i) and (e) and 6 CAR § 130-1504(b)(1) and 6 CAR § 130-1505.

6 CAR § 130-1504. Criteria for selection of surrogates.

(a) The public agency may select a surrogate parent in any way permitted under state law.

(b) Public agencies must ensure that a person selected as a surrogate:

(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;

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

(3) Has knowledge and skills that ensure adequate representation of the child.

6 CAR § 130-1505. Nonemployee requirement — Compensation.

A person who otherwise qualifies to be surrogate parent under 34 C.F.R. § 300.519(d) and 6 CAR § 130-1503 is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

6 CAR § 130-1506. 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 34 C.F.R. § 300.519(d)(2)(i), until a surrogate parent can be appointed that meets all the requirements of 34 C.F.R. § 300.519(d).

6 CAR § 130-1507. Responsibilities.

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

(1) Identification, evaluation, and educational placement of the child; and

(2) Provision of FAPE to the child.

6 CAR § 130-1508. SEA responsibility.

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