

# ROCKINGHAM COUNTY PUBLIC SCHOOLS

## SURROGATE PARENT HANDBOOK

January 2012



## Introduction

This handbook, prepared by Rockingham County Public Schools Pupil Personnel Services, is intended to provide an overview of the surrogate parent role.

Surrogate parents are appointed for children for whom:

- no parent can be identified;
- the school division, after reasonable efforts, cannot locate a parent;
- the child is ward of the State under the laws of Virginia; or
- the child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act.

Federal and state laws stress that all children suspected of having or are determined to have disabilities be provided certain rights. It is the responsibility of the State to establish a method for determining whether a student needs a surrogate parent and for assigning a surrogate parent within 30 calendar days after the determination of a need.

Because special education services attempt to prepare students with disabilities to live and work in society, such students are educated with their peers to the maximum extent appropriate. Effort is made to place the student in the least restrictive environment. In determining the most appropriate setting, each student is considered on an individual basis. The Rockingham County Public School Division (school division) provides a continuum of alternative placement options and services to meet the varying needs of disabled students. Surrogate parents assure that these children are represented in an unbiased manner throughout the special education referral, evaluation, identification, and service delivery processes.

Rockingham County Public Schools appreciate your willingness to serve as a surrogate parent. By volunteering your time, you have demonstrated a commitment to realizing the educational potential of these special students.

If you have any questions or concerns regarding the information stated within this document, you may contact the Director, Pupil Personnel Services.

Scott L. Hand, Ed. S  
Director, Pupil Personnel Services  
Rockingham County Public Schools  
100 Mt. Clinton Pike  
Harrisonburg, VA 22802  
540-564-3228  
[shand@rockingham.k12.va.us](mailto:shand@rockingham.k12.va.us)

## Questions and Answers

### What is a parent?

A parent, as defined by the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (2009), is defined as:

- A biological or adoptive parent; or
- A foster parent \*if:
  - The biological parents authority to make educational decisions has been extinguished under law,
  - The child is in permanent foster care, and
  - The foster parent has an on-going and long-term relationship with the student, is willing to make decisions, and has no interest that would conflict with the interests of the child; or
- A guardian authorized to act for the child or make educational decisions (but not a guardian ad litem, or the state if a child is a ward of the state); or
- An individual acting in the place of a natural 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 minor who is emancipated under § 16.1-333 of the Code of Virginia; or
- A properly appointed surrogate parent; or
- If a judicial decree or order appoints a person to act as a parent for making educational decisions, then such person shall be determined to be the parent.

The term refers to either parent unless the school system has been provided with evidence that there is a legally binding instrument, state law, or court order that has terminated parental rights.

A validly married minor who has not pursued emancipation under § 16.1-333 of the Code of Virginia may assert implied emancipation based on the minor's marriage record and, thus, assumes responsibilities of "parent."

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 under this section to act as a parent, shall be presumed to be the parent unless the natural or adoptive parent does not have legal authority to make educational decisions for the child.

Non-custodial parents whose parental rights have not been terminated are entitled to all parent rights and responsibilities including access to their child's records. Custodial stepparents have the right to access the child's record. Non-custodial stepparents do not have the right to access the child's record.

The term "parent" does not include local or state agencies or their agents, including the local department of social services, if the child is in the custody of such an agency.

\* The school division shall provide written notice to the biological or adoptive parents at their last known address that a foster parent is acting as the parent and the school division is entitled to rely upon the actions of the foster parent until such time that the biological or adoptive parent attempts to act as the parent.

### What is a surrogate parent?

A surrogate parent is a volunteer who is appointed by a school district to help children who do not have parents or family members available to assist in educational decisions. The surrogate parent has all of the rights and can make all of the special education and early intervention decisions that are usually made by the child's parents.

The term "surrogate parent" is functionally defined in the federal regulations implementing the IDEA. The Regulations Governing Special Education Programs for Children with Disabilities in Virginia (2009) define a surrogate parent as "a person appointed in accordance with procedures set forth...to ensure that children are afforded the protection of procedural safeguards and the provision of a free appropriate public education" (FAPE).

State and federal regulations require that the surrogate parent represent the child in all matters relating to:

- The identification, evaluation, or educational placement of the child; and
- The provision of a free appropriate public education.

Surrogate parents can review educational records; request and consent to evaluations and triennial reviews; and challenge the recommendations of the education or early intervention agency by requesting informal and formal dispute resolution procedures.

A surrogate parent, as appointed by the school division, does not have any rights regarding the student outside of the special education process.

### **Who can serve as a surrogate parent?**

There are a few qualifications and restrictions that apply to individuals being considered for service as a surrogate parent.

As the local educational agency, Rockingham County Public Schools shall ensure that a person appointed as a surrogate:

- Has no interest that conflicts with the interest of the child he/she represents;
- Has knowledge and skills that ensure adequate representation of the child. The prospective surrogate parent must have completed a training session prior to representing the child. Thereafter, annual training may be provided, as necessary, for surrogate parents to ensure that they possess knowledge of special education and related services for children with disabilities, as well as knowledge of the legal requirements necessary to represent the children effectively.
- Is not an employee of the Virginia Department of Education, or any other agency, including the school system or the Department of Social Services, which is involved in the education or care of the child;
- Is an adult (minimum age of 18); and
- Resides in the same general geographic area as the child, whenever possible.

The school division may select as a surrogate parent a person who is an employee of a nonpublic agency that only provides non-educational care for the child and who meets the above standards. A person who otherwise qualifies to be a surrogate parent must not be an employee of the agency solely because the person is paid by the agency to serve as a surrogate parent.

Other factors, which warrant attention by the school system, are as follows:

- Consideration of the appointment of a relative to serve as a surrogate parent;
- Consideration of the appointment of a foster parent who has the knowledge and skills to represent the child adequately;
- Consideration of the appointment of a qualified person of the same racial, cultural, and linguistic background as the child; and
- The appropriateness of the child's participation in the selection of the surrogate parent.

### **Who appoints a surrogate parent?**

The school division makes the appointment. For a child who is a ward of the State, the judge overseeing the child's care may appoint a surrogate provided that the person meets the standards noted in the previous question.

### **When is a surrogate parent appointed for a student with a disability?**

A surrogate parent shall be appointed for a child, aged two through 21, inclusive, who is suspected of having or determined to have a disability when:

- No parent can be identified; or
- The school division, after reasonable efforts, cannot discover the whereabouts of a parent; or
- The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act; or
- The child is a ward of the State.

Children, aged two through 21, inclusive, who are suspected of having, or determined to have, disabilities do not require a surrogate parent if:

- The natural parent(s) or guardian(s) are allowing relatives or private individuals to act as a parent;
- The child is in the custody of the local department of social services or a licensed child-placing agency, and termination of parental rights has been granted by a juvenile and domestic relations court of competent jurisdiction. The foster parent for that child may serve as the parent of the child for the purposes of any special education proceedings.
- The child is in the custody of a local department of social services or a licensed child-placing agency, and a permanent foster care placement order has been entered by a juvenile and domestic relations court of competent jurisdiction. The permanent foster care parent named in the order for that child may serve as the parent of the child for the purposes of any special education proceedings.

The decision to appoint a surrogate parent for a child in temporary foster care will be determined on an individualized basis. The school social worker assigned to the case will initiate contact with the placing agency to determine the appropriateness of parental participation in any special education proceedings. Parental rights have not been terminated in such situations; however, child safety issues may preclude participation. Final determination to appoint a surrogate parent will reside with the Director, Pupil Personnel Services.

If a "private individual" is selected by the parent(s) or guardian(s) to act as a parent, then the school district will require a written notice to this effect, including the date of selection, the duration of the responsibility, and a notarized signature of the parent or guardian. Duration will be defined as the duration of the current school year in which the request is made.

The school social worker assigned case management of the student/child maintains the responsibility of determining the need to recruit a surrogate parent and of ensuring that appropriate qualifications, including training, are satisfied.

### **How is a surrogate parent appointed?**

The appointment process begins when a school social worker determines that a surrogate parent is necessary for a child with a disability.

The school social worker has the option of selecting the adult with whom the child currently resides as a possible candidate for surrogate parent training. If acceptable to the notion and qualified by applicable regulations, the school

social worker would then secure training for the adult prior to any action in such a role. Following training, the adult candidate's name, address, and phone number is submitted to the division superintendent, or designee (Director, Pupil Personnel Services) for appointment. The school social worker may also choose to select a surrogate parent from the current listing of trained surrogate parents.

**Are employees of private agencies that operate small group homes eligible to serve as surrogate parents for children with disabilities committed to that agency?**

The school division may select as a surrogate a person who is an employee of a nonpublic agency that only provides non-educational care for the child. Employees of private agencies that operate small group homes may serve as surrogate parents because the facility is not a "public agency." Caution should be implemented in determining the appropriateness of such an appointment because of the potential for conflict of interest or bias. Employees of "specialized day placements" that provide educational services are not eligible to serve as a surrogate parents.

**What happens following the appointment?**

Once appointed, the school system shall notify, in writing, the following parties of the appointment:

- The child with a disability aged two through 21, inclusive, as appropriate to the disability;
- The surrogate parent-appointee;
- The person charged with the responsibility for the child; and
- The custodial state agency charged with responsibility for the child.

If parental rights have not been terminated, then a copy of all procedural notices or other correspondences will be sent to the parents. In instances where the school system has not been able to locate the whereabouts of the parent(s), a letter to the last known address will suffice as evidence of a "good faith effort" to effect this requirement.

The appointment begins following the written notification.

**What does a surrogate parent do?**

As a parent representative for the student, the surrogate parent works with the school to determine what special education services, if any, the student will receive, how the services will be delivered and ensure that the rights of the student/child are protected. This includes the evaluation, identification, and educational placement of the child. In addition, the surrogate parent is the appropriate person to request a due process hearing on behalf of the child.

The surrogate parent signs for "release of information" if the requested records concern the identification, evaluation, and placement of the child or the provision of a free appropriate public education to the child with a disability is being reviewed.

**What is the duration of the appointment?**

The surrogate parent shall serve during, or for the duration of, the school year for which the surrogate parent is appointed. When it is determined that the child requires a differentiated instructional program as delineated in the Individualized Educational Program (IEP), the surrogate parent shall serve for the duration of that current IEP document. The IEP may begin in one school year and end during another.

If the child requires the services of a surrogate parent during the summer months, the school system shall extend the appointment as needed, consistent with timelines required by law.

At the conclusion of each school year, the appointment of surrogate parents shall be renewed or not renewed following a review by the superintendent, or designee.

**When a foster parent has been appointed as a surrogate parent and then, for whatever reason, new foster parents are selected for the child, is the surrogate parent appointment automatically terminated?**

No, transfer of a child to a different foster parent would not automatically result in a change of appointment of a surrogate parent. A change in appointment would occur prior to the expiration date of the surrogate's appointment if the surrogate parent were no longer able to objectively represent the educational interests of the child. Depending on the circumstances surrounding the change in temporary foster parents, it is possible that the former foster parents no longer meet the eligibility criteria (e.g., alleged abuse).

**What procedures are in place to change or terminate the appointment of a surrogate parent?**

The superintendent, or designee, should be informed if there is a need to change or terminate the assignment of a surrogate parent prior to the conclusion of the appointment. Upon notification, the superintendent, or designee, shall initiate corrective action.

If conflict arises regarding the decision of the superintendent, or designee, regarding the change or termination, the surrogate parent may request a hearing to challenge the decision.

The assignment of a surrogate parent may be terminated only when one or more of the circumstances occur as follows:

- The child reaches the age of majority (age 18) and rights are transferred to the adult-student or to an educational representative who has been appointed for the adult-student in accordance with regulatory procedures;
- The child is no longer found eligible for special education services and the surrogate parent has consented to the termination of those services;
- Legal guardianship for the child is transferred to a person who is able to carry out the role of the parent;
- The parent (s), whose whereabouts were previously unknown, are now known and available; or
- The appointed surrogate parent is no longer eligible according to regulation criteria set out in the regulations.

Procedures for the Appointment of a Surrogate Parent  
January 2012

Task	Responsibility	Timeline
<p>Determination that a surrogate parent is necessary:</p> <ul style="list-style-type: none"> <li>• No parent can be identified</li> <li>• No parent can be found</li> <li>• The child is an unaccompanied homeless youth</li> <li>• The child is a ward of the state</li> </ul>	School Social Worker	N/A
<p>Selection of the surrogate parent:</p> <ul style="list-style-type: none"> <li>• Consult "surrogate parent list"</li> <li>• May be the adult with whom the child currently resides (see definition of "adult" in the Surrogate Parent Handbook)</li> </ul>	School Social Worker	Within 30 calendar days of determination that a surrogate is necessary
<p>Acceptance by the surrogate parent of the appointment</p>	School Social Worker	Within 30 calendar days of determination that a surrogate is necessary
<p>Surrogate parent training:</p> <ul style="list-style-type: none"> <li>• Review "Parent's Guide to Special Education"</li> <li>• Review "Surrogate Parent Handbook"</li> <li>• Complete "Trained Surrogate Form"</li> </ul>	School Social Worker	Within 30 calendar days of determination that a surrogate is necessary
<p>Acknowledgement by the school division of the appointment to:</p> <ul style="list-style-type: none"> <li>• The child, as appropriate</li> <li>• The surrogate parent</li> <li>• The person (or agency) charged with responsibility for the child</li> </ul>	Director, Pupil Personnel Services	Within 30 calendar days of determination that a surrogate is necessary
<p>Appointment renewal</p>	Director, Pupil Personnel Services	At the conclusion of each school year or, if a child with a disability, at the conclusion of the current IEP

## TRAINED SURROGATE FORM

**PARENT(S) NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_

**TELEPHONE NUMBER:** \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ **CELL PHONE NUMBER:** \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

**DATE OF TRAINING:** \_\_\_\_/\_\_\_\_/\_\_\_\_

**CHILD IN HOME (if applicable):** \_\_\_\_\_