

**Sec. 1. PARENT**

The parent plays an active role in making educational decisions related to the student's special education program and must be ensured the opportunity for meaningful participation.

For the purpose of special education decision-making, a parent includes:

- A biological or adoptive parent;
- A foster parent of the student who meets the requirements for a foster parent to act as a parent;
- A guardian, but not the state itself, if the student 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 student lives, or another individual who is legally responsible for the student's welfare; or
- An individual assigned to be a surrogate parent.

The Department of Family and Protective Services ("DFPS") itself is not considered the parent.

*34 CFR 300.30(a).*

**Sec. 2. FOSTER PARENT**

A foster parent may act as a parent of a child with a disability, as authorized under 20 U.S.C. 1415(b) and its subsequent amendments, if:

1. the Department of Family and Protective Services ("DFPS") is appointed as the temporary or permanent managing conservator of the child;
2. the rights and duties of the DFPS to make decisions regarding education provided to the child have not been limited by court order; and
3. the foster parent agrees to:
  - a. participate in making special education decisions on the child's behalf; and
  - b. complete a training program that complies with minimum standards established by the Texas Education Agency ("TEA") rule.

*Tex. Educ. Code § 29.015(a); 19 TAC 89.1047(a).*

A foster parent who will act as a parent of a child with a disability must complete a training program before the next scheduled admission, review, and dismissal ("ARD") committee meeting for the child but not later than the 90th day after the date the foster parent begins acting as the parent for the purpose of making special education decisions. *Tex. Educ. Code § 29.015(b).*

International Leadership of Texas may not require a foster parent to retake a training program or require additional training to continue serving as a child's parent or to serve as the surrogate parent

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for another child if the foster parent has completed a training program to act as a parent of a child with a disability provided by:

1. the DFPS;
2. a school district;
3. an education service center; or
4. any other entity that receives federal funds to provide special education training to parents.

Not later than the 5<sup>th</sup> day after the date the child with a disability is enrolled, the DFPS must inform International Leadership of Texas if the child's foster parent is unwilling or unable to serve as a parent. *Tex. Educ. Code § 29.015(d)*.

In addition, International Leadership of Texas may deny a foster parent the right to serve as a parent, but written notice of such refusal must be provided to the foster parent within 7 calendar days after the decision is made and must specifically explain why the foster parent is being denied and inform the foster parent of the right to file a complaint with the TEA in accordance with federal law and regulations. *Tex. Educ. Code § 29.015(c)*.

International Leadership of Texas shall provide notice to the student's educational decision-maker and caseworker regarding events that may significantly impact the education of a student, including:

1. requests or referrals for an evaluation under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or special education under Education Code Section 29.003;
2. ARD committee meetings;
3. manifestation determination reviews required by Education Code Section 37.004(b);
4. any disciplinary actions under Chapter 37 of the Education Code for which parental notice is required;
5. citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities;
6. reports of restraint and seclusion required by Education Code Section 37.0021; and
7. use of corporal punishment as provided by Education Code Section 37.0011.

*Tex. Educ. Code § 25.007.*

As a condition to receiving funds under Title I, Part A, International Leadership of Texas shall collaborate with the state or local child welfare agency to:

- a. ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with 42 U.S.C. 675(4)(A) and to the extent required by law; and
- b. ensure that, if there are additional costs incurred in providing transportation to maintain

children in foster care in their schools of origin, International Leadership of Texas will, to the extent required by law, provide transportation to the school of origin if:

- i. the local child welfare agency agrees to reimburse International Leadership of Texas for the cost of transportation;
- ii. International Leadership of Texas agrees to pay the cost of transportation; or
- iii. International Leadership of Texas and the local welfare agency agree to share the cost of such transportation.

*20 U.S.C. 6312(c)(5).*

### **Sec. 3. SURROGATE PARENT**

A surrogate parent is a person who is legally entitled to take the place of a parent under certain circumstances to make educational decisions for a student with a disability. The appointment of a surrogate parent applies to students with disabilities for whom the DFPS is appointed as the temporary or permanent managing conservator of the student and the rights and duties of the DFPS to make educational decisions for the student have not been limited by court order. In some situations, a judge will appoint a surrogate parent. However, International Leadership of Texas must make reasonable efforts to appoint a surrogate parent not more than 30 days after International Leadership of Texas determines that the student needs a surrogate parent if the judge has not appointed a surrogate. *Tex. Educ. Code § 29.0151(a); 34 CFR 300.519(h); Family Code 263.0025.*

International Leadership of Texas must assign a surrogate parent for a student with a disability when:

1. a parent for student cannot be identified;
2. a parent for the student cannot be located, after reasonable efforts;
3. the foster parent of the student is unwilling or unable to serve as a parent;
4. the student does not reside in a foster home setting;
5. the student is a ward of the state; or
6. the student is an unaccompanied homeless youth.

*Tex. Educ. Code § 29.0151; 19 TAC 89.1047(c); 34 CFR 300.519.*

A surrogate parent appointed by International Leadership of Texas may not be an employee of the state, International Leadership of Texas, or any other agency involved in the education or care of the child; or have any interest that conflicts with the interests of the child. *19 TAC 89.1047; 34 CFR 300.519; Tex. Educ. Code § 29.0151.*

International Leadership of Texas must ensure that the surrogate parent it appoints:

1. is willing to serve in that capacity;
2. exercises independent judgement in pursuing the child's interests;
3. ensures that the child's due process rights under applicable state and federal laws are not violated;
4. completes a training program that complies with minimum standards established by agency rule before the next scheduled admission, review, and dismissal committee meeting for the child but not later than the 90th day after the date the surrogate parent is appointed;
5. visits the child and the school where the child is enrolled;
6. reviews the child's educational records;
7. consults with any person involved in the child's education, including the child's teachers, caseworkers, court-appointed volunteers, guardian ad litem, attorney ad litem, foster parent, and caregiver; and
8. attends meetings of the child's admission, review, and dismissal committee.

*Tex. Educ. Code § 29.0151(d), 29.001(10).*

International Leadership of Texas may appoint a person who has been appointed to serve as a child's guardian ad litem or as a court-certified volunteer advocate as the child's surrogate parent. As soon as practicable after appointing a surrogate parent International Leadership of Texas shall provide written notice of the appointment to the child's educational decision-maker and caseworker. *Tex. Educ. Code § 29.1051(e).*

If a court appoints a surrogate parent for a child with a disability and the International Leadership of Texas determines that the surrogate parent is failing to perform or is not properly performing the duties listed in this policy, International Leadership of Texas shall consult with the DFPS regarding whether another person should be appointed to serve as the surrogate parent for the child. *19 TAC 89.1047(e); Tex. Educ. Code § 29.0151(f); Family Code 263.0025.*

#### **Sec. 4. TRAINING PROGRAMS FOR FOSTER AND SURROGATE PARENTS**

All individuals seeking to become a foster or surrogate parent must participate in a mandatory training that outlines federal and state laws, rules, and regulations related to special education before the foster parent can act as the parent or before International Leadership of Texas can appoint the individual to be a surrogate parent for the purpose of making educational decisions on behalf of the student. Specifically, this training must explain:

- the identification of the student with a disability;
- the evaluation and reevaluation process;
- the ARD Committee process;
- the process for developing and implementing an IEP, as well as transition services for a student ages 14 or older;
- the determination of least restrictive environment;
- the *Notice of Procedural Safeguards*;

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- the sources for the surrogate parent to contact to obtain assistance in understanding the provisions of federal and state laws, rules, and regulations related to special education; and
- the duties and responsibilities of surrogate parents under state law.

The training must be provided in the potential surrogate or foster parent's native language, or other mode of communication used by the individual, where practicable. The training may be conducted or provided by the DFPS, International Leadership of Texas personnel, an education service center, or any other entity receiving federal funding to provide special education training to parents.

*19 TAC 89.1047; Tex. Educ. Code § 29.0151.*