Sec. 1. WARD OF THE STATE

All children who are in the managing conservatorship of the Department of Family and Protective Services ("DFPS"), whether through a court order or a voluntary relinquishment under Texas Family Code § 15.03, are considered "wards of the state." For a child with disabilities who is a ward of the state, the child shall be represented by a "parent" as defined by the IDEA. This may include a foster parent who meets the requirements for a foster parent to act as a parent, an assigned or appointed surrogate parent, or an individual designated by the court to make educational decisions on the child's behalf.

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 DFPS is appointed as the temporary or permanent managing conservator of the child;
2. the rights and duties of the department to make decisions regarding education provided to the child under Section 153.371, Texas Family Code, 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), (b); Tex. Admin. Code § 89.1047.

For a foster parent to serve as a student's parent, Academy of Accelerated Learning, Inc., (AAL) must ensure that the foster parent has received training before the next scheduled admission, review, and dismissal ("ARD") committee meeting for the child 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); Tex. Admin. Code § 89.1047.

AAL may not require a foster parent to retake a training program to continue serving as a child's parent or to serve as the surrogate parent 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.

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A foster parent who is denied the right to act as a parent under Texas Education Code § 29.015 by an open-enrollment charter school may file a complaint with the TEA in accordance with federal law and regulations.

Tex. Educ. Code § 29.015(c).

Sec. 3. SURROGATE PARENT

AAL must appoint an individual to serve as the surrogate parent for a child if:

1. AAL is unable to identify or locate a parent for a child with a disability;
2. the child is a ward of the state, including children in residential care facilities;
3. the child is an unaccompanied homeless youth; or
4. the foster parent of a child is unwilling or unable to serve as a parent.

34 C.F.R. § 300.519; Tex. Educ. Code § 29.0151.

A surrogate parent appointed by AAL may not:

1. be an employee of the state, AAL;
2. be an employee of any other agency that is involved in the education or care of the child; or
3. be a person with any interest that conflicts with the interests of the child.

34 C.F.R. § 300.519(d)(2), (e); 19 Tex. Admin. Code § 89.1047; Tex. Educ. Code § 29.0151.

The AAL may appoint a person who has been appointed to serve as the child's guardian ad litem or as a certified volunteer advocate, as the child's surrogate parent. As soon as practicable after appointing a surrogate parent, AAL shall provide written notice of the appointment to the child's educational decision-maker and DFPS caseworker.

Tex. Educ. Code § 29.0151(e); Tex. Fam. Code § 107.031(c).

AAL must make reasonable efforts to appoint a surrogate parent not more than 30 days after there is a determination that the child needs a surrogate parent unless the judge overseeing the child's care appoints the surrogate parent.

34 C.F.R. § 300.519; Tex. Fam. Code § 263.0025.

A surrogate parent must:

1. be willing to serve in that capacity;
2. exercise independent judgement in pursuing the child's interests;

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3. ensure that the child's due process rights under applicable state and federal laws are not violated;
4. complete 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. visit the child and the school where the child is enrolled;
6. review the child's educational records;
7. consult 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. attend meetings of the child's admission, review, and dismissal committee.

If a court appoints a surrogate parent for a child with a disability and the AAL determines that the surrogate parent is failing to perform or is not properly performing the duties listed in this policy, AAL shall consult with the DFPS regarding whether another person should be appointed to serve as the surrogate parent for the child.
AAL 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 Texas Education Code § 29.003;
2. ARD committee meetings;
3. manifestation determination reviews required by Texas Education Code § 37.004(b);
4. any disciplinary actions under Chapter 37 of the Texas 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 Texas Education Code § 37.0021; and
7. use of corporal punishment as provided by Texas Education Code § 37.0011.

Tex. Educ. Code § 25.007.

As a condition to receiving funds under Title I, Part A, AAL 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, AAL will, to the extent required by law, provide transportation to the school of origin if:

    i. the local child welfare agency agrees to reimburse AAL for the cost of transportation;

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ii. AAL agrees to pay the cost of transportation; or
iii. AAL and the local welfare agency agree to share the cost of such transportation.

20 U.S.C. § 6312(c)(5).

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