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## POLICY 702 – Educational Surrogate Parent (ESP)

### A. POLICY

The Individuals with Disabilities Education Act (IDEA) provides protections for children in need of or receiving special education services. Children in the custody of the Division of Family Services who receive or may receive special education services are provided educational advocacy to ensure their educational needs are assessed and appropriate services are provided.

### B. PROCEDURES

The Educational Surrogate Parent (ESP) Program was established under the Individuals with Disabilities Education Act (IDEA) to ensure children, birth to adulthood, who receive or may receive special education services have a trained ESP appointed when the parent is not known or there is not a parent able or available to represent the child's best interest and assume parental special education rights. The ESP exercises all rights of a parent to assure the provision of a free, appropriate, public education to the child.

The definition of parent under IDEA and Delaware Regulations includes:

- a. A biological or adoptive parent of the child;
- b. A guardian generally authorized to act as the child's parent, or authorized to make educational decision for the child (but not the State if the child is award of the State);
- c. A relative caregiver who is acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) and with whom the child lives. For school age children a Relative Caregiver School Authorization form is required by the school district;
- d. An individual who is otherwise legally responsible for the child's welfare (not including the Child Welfare Agency); OR
- e. A Surrogate Parent

A child in the custody of the Division of Family Services who has disabilities is eligible for an Educational Surrogate Parent (ESP) even when they have a parent who is identified and located. The caseworker and supervisor should discuss if a child's parent is willing and able to continue to represent the child's interests in the educational process. This is typically a case planning decision, however the decision to request an ESP is at the discretion of the DFS caseworker.

If a child's parent(s) are unknown, unavailable, or the child is in DFS Custody and the child has been determined to need special education services, the caseworker will complete an Educational Surrogate Parent Program Referral Form and email it to the ESP Program. The ESP program is currently being provided by the Parent Information Center of Delaware (PIC)

and the most current referral can be found on the Parent Information Center (PIC) website, [www.picofdel.org](http://www.picofdel.org).

If the caseworker is unsure about whether a child needs an ESP the caseworker should contact the Educational Surrogate Parent Coordinator to discuss the circumstances.

Examples of special educations services include, but are not limited to the following:

- a. Conducting and initial evaluation or re-evaluation for special education services.
- b. Conducting and Individualized Educational Plan (IEP) meeting for any of the following:
  - a. Conducting an annual review of the child's IEP;
  - b. Considering post –secondary goals and transition services;
  - c. Development, Review, or Revision of a child's IEP;
  - d. Development of a Functional Behavior Assessment and/or Behavior Support Plan as part of the IEP;
  - e. Determining whether a behavioral incident was a manifestation of a child's disability;
  - f. Considering dismissal of the child from special education services.

The ESP signs all special education documents such as evaluation, eligibility and Individual Family Service Plans (IFSP) for children ages birth – 3 or Individual Education Plans (IEP) for school aged children ages 3 - adult. The child's caseworker legally may NOT sign these documents in lieu of the parent or ESP, but may assist the school in getting the parent's signature.

The Department of Education is the agency responsible for appointing an ESP. The ESP serves as the parent in all educational decision making, including evaluation, eligibility, and Individual Education Program planning.

In many cases, foster parents may be willing to consider becoming educational surrogate parents and should be referred to the Educational Surrogate Parent Program. The ESP program trains individuals and makes recommendations to the Department of Education for appointments.

**C. FOCUS**

No FOCUS functionality

**D. FORMS** Use the DFS policy website to access any forms:

<https://kids.delaware.gov/policies/dfs-policies>

Educational Surrogate Parent Referral for Child Development Watch ages 0-3

Educational Surrogate Parent Referral for School Aged Children 3-21

Educational Surrogate Brochure