

APPOINTMENT OF SURROGATE PARENTS

Assignment of a surrogate parent shall occur whenever the parents or legal guardian of a student with a disability identified for services under the Individuals with Disabilities Education Act (IDEA) cannot be identified or, after reasonable efforts, the location of the parents cannot be discovered or if the student is a ward of the state (and the parents' rights have been permanently terminated). A surrogate parent is not required where the student has a foster parent, the student's natural parent's authority to make educational decisions on behalf of the student has been extinguished under state law, and the foster parent is willing to make the decisions as a parent and has no interest that would conflict with the student's interests.

Within 10 days of determining that an IDEA-eligible student is in need of a surrogate parent, the Superintendent or designee shall nominate a surrogate parent by providing a nomination to the youth court. The Superintendent or designee shall be governed by the following in nominating an individual to serve as a surrogate parent:

1. The individual is an adult who:
 - a. Is not an employee of the District or any other local educational agency providing educational services to the student; or
 - b. Is not an employee of the Montana Office of Public Instruction, any other state educational agency providing educational services to the student, or any state agency responsible for the care of the student (An employee of DPHHS, a home responsible for the student, or social worker of the student cannot be nominated).
2. The individual does not have a vested interest that will conflict with that individual's representation and protection of the student.
3. Whenever practicable, the individual should be knowledgeable about the educational system, special education requirements, and the legal rights of the student in relation to the educational system.
4. Whenever practicable, individual should be familiar with the cultural or language background of the student.
5. The individual is willing to represent the student in all decision making processes concerning the student's education by becoming thoroughly acquainted with the student's history and education files, complying with state and federal confidentiality laws, using discretion in the necessary sharing of the student's information to the appropriate people to further the interests of the student, becoming familiar with the student's evaluations and placement, approving or disapproving the evaluation and placement of the student, reviewing the student's special education program in relation to other available programs, initiating procedural safeguards, and seeking legal assistance when in the best interests of the student.

The Superintendent or designee must submit the nomination for appointment, with necessary supporting documents, to the youth court for the appointment of the surrogate parent. The Superintendent or designee shall take all reasonable action to ensure that the youth court makes a decision on the nomination within 20 days of filing the nomination and supporting documents. If the youth court denies the appointment, the Superintendent or designee shall nominate another individual to serve as a surrogate parent in accordance with these procedures.

If the youth court fails to act within 20 days of the filing of the nomination and supporting documents, the individual nominated is the surrogate parent.

The Superintendent or designee shall ensure that the appointed surrogate parent is reimbursed by the District for all reasonable and necessary expenses incurred in the pursuit of the surrogate parent's duties.

The Superintendent or designee must petition a court for the termination of the surrogate parent's appointment when the student's parents are identified, the whereabouts of the parents are discovered, the student is no longer a ward of the state, or the surrogate parent wishes to discontinue his or her appointment.