

	<p>POLICIES AND PROCEDURES NEW JERSEY EARLY INTERVENTION SYSTEM</p>
<p>No: NJEIS-21</p>	<p>Subject: Appointment of Surrogate Parent</p>
<p>Effective Date: July 1, 2013</p>	<p>Responsible Party: Procedural Safeguards Coordinator</p>

I. Purpose

To ensure the rights of a child are protected when no parent can be identified, a parent cannot be located, or the child is a ward of the State of New Jersey.

II. Policy

A. A child referred to the New Jersey Early Intervention System (NJEIS) has the right to the appointment of a surrogate parent if:

1. No parent can be identified;
2. NJEIS, after reasonable efforts cannot locate a parent; or
3. The child is a ward of the State of New Jersey.

B. A parent is defined as:

1. A biological or adoptive parent of a child;
2. A foster parent unless state law, regulations, or contractual obligations with a state or local entity prohibits a foster parent from acting as a parent;
3. A guardian generally authorized to act as the child’s parent, or authorized to make early intervention, educational, health or developmental decisions for the child, but not the state if the child is a ward of the state;
4. An individual acting in the place of a biological 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
5. A surrogate parent is an individual who has been appointed in accordance with federal requirements and state rules.

C. Except as provided in D. below, the biological or adoptive parent, when attempting to act as the parent, and when more than one party is qualified under B. 1-4 above, must be presumed to be the parent for purposes of NJEIS unless the biological or adoptive parent does not have legal authority to make educational or early intervention services decisions for the child.

- D. If a judicial decree or order identifies a specific person or persons to act as the “parent” of a child or to make educational or early intervention service decisions on behalf of a child, then the person or persons must be determined to be the “parent” for purposes of NJEIS, except that if an EIS provider or a public agency provides any services to a child or any family member of that child, that EIS provider or public agency may not act as the parent for that child.
- E. In the case of a child who is a ward of the State or placed in foster care, NJEIS must consult with the public agency that has been assigned care of the child.
- F. The assignment of an individual to act as a surrogate for the parent must include a method for:
 - 1. Determining whether a child needs a surrogate parent; and
 - 2. Assigning a surrogate parent to the child.
- G. In the case of a child who is a ward of the State, the surrogate parent, instead of being appointed by NJEIS, may be appointed by the judge overseeing the infant or toddler’s case provided that the surrogate parent meets the requirements in H. below.
- H. A person selected as a surrogate parent:
 - 1. May not be an employee or independent contractor that provides early intervention services, education, care, or other services to the child or any family member of the child through:
 - a. The Department of Health (DOH);
 - b. Any other public agency; or
 - c. An EIS provider agency.
 - 2. Can have no personal or professional interest that conflicts with the interest of the child he or she represents; and
 - 3. Must have knowledge and skills that ensure adequate representation of the child.
- I. A person who is otherwise qualified to be a surrogate parent is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.
- J. The surrogate parent has the same rights as a parent for all purposes under NJEIS.

III. Procedures

A. Determination of the Need for Appointment of a Surrogate

- 1. The determination of the need for a surrogate parent is the responsibility of:
 - a. The REIC SPOE when a child is first referred to the NJEIS; and
 - b. The service coordinator and the SCU for a child already in the NJEIS, whose circumstances have changed, so that a parent cannot be identified or located after reasonable efforts or the child has been made a ward of the State.
- 2. The determination of the need for a surrogate parent may include discussions with family members and others who are caring for the child, contacting the Division for Child Protection and Permanency (DCP&P), review of court documents and records, and reasonable and timely search of available public records.

3. If no parent, as defined by federal requirements, can be located or identified or the child is a ward of the State, a surrogate parent shall be appointed by the REIC.
4. The SPOE service coordinator or the service coordinator shall document all attempts to determine if a surrogate parent is needed to represent the child in all matters related to IDEA.
5. The service coordinator must consult with DCP&P for any child who is a ward of the State or placed in foster care.

B. Appointment of a Surrogate Parent

1. The REIC must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after determining that the child needs a surrogate parent. The NJEIS Surrogate Parent Appointment letter is sent to the individual appointed.
2. Copies of all documentation related to the surrogate parent must be included in the child's early intervention record.
3. The Regional Early Intervention Collaborative (REIC) shall maintain a list of individuals who are available and qualified to serve as a surrogate parent. This includes:
 - a. Making reasonable efforts to identify and recruit potential candidates to serve as surrogate parents (e.g., posting public notices; or actively seeking referrals);
 - b. Interviewing and reviewing each candidate to establish that the individual:
 - i. Is at least eighteen (18) years of age having valid proof of age (e.g. a valid driver's license);
 - ii. Is a United States citizen having valid proof of citizenship (e.g. a social security card);
 - iii. Is a resident of New Jersey having valid proof of residence (e.g. a paystub, utility bill, lease or deed, or other acceptable document confirming the candidate's mailing address);
 - iv. Is capable to advocate effectively for a child's needs and to protect a child's rights under IDEA;
 - v. Fully understands the role, responsibilities, and requirements of being a surrogate parent; and
 - vi. Does not have a criminal record pursuant to N.J.A.C. 8:17-15.2 as amended or supplemented.
 - c. Projecting the need for surrogate parents on a regional basis; and
 - d. Ensuring the supply of available surrogates is adequate to meet the projected need.
4. The REIC shall implement a training program for any individual before they are appointed as a surrogate parent and provide opportunities for annual updates for any individual serving as a surrogate parent.
5. Training materials developed through the NJEIS Procedural Safeguards Office focusing on the surrogate parent understanding parent rights under NJEIS must be used.
6. A person selected as a surrogate parent:

- a. May not have any interests that conflict with the interests of the represented child;
- b. May not be an employee of any state agency or a person, or employee of a person, providing early intervention services to the child or to any of the child's family members;
- c. Shall have the requisite knowledge and skills to ensure adequate representation of the child; and
- d. Shall, if feasible, reside in the same general geographic area of the child.

C. Responsibility of a Surrogate Parent

1. The REIC is responsible for obtaining a signature of each surrogate parent on the Surrogate Parent Confidentiality Agreement.
2. A surrogate parent is authorized to represent a child in all matters relating to:
 - a. The evaluation and assessment of the child;
 - b. Development and implementation of the child's IFSP, including annual evaluations and periodic reviews;
 - c. The ongoing provision of early intervention services to the child; and
 - d. Any other applicable rights of a child under IDEA.
3. The surrogate parent shall record all surrogate parent activities on the Surrogate Parent Reporting form. The completed form must be signed and include all activities related to surrogate parent responsibilities.
4. The Surrogate Parent Reporting form is submitted to the service coordinator who reviews the form and then sends it to the designated REIC for reimbursement to the surrogate parent.

D. Termination of a Surrogate Parent Assignment

1. The Department shall not terminate a surrogate parent in retaliation for the surrogate parent exercising his or her rights or the rights of the child pursuant to N.J.A.C. 8:17-5.3 as amended or supplemented.
2. Termination of the surrogate assignment occurs when the:
 - a. Child no longer needs a surrogate parent;
 - b. Current surrogate parent no longer meets the requirements outlined in this policy and procedure;
 - c. Child exits NJEIS;
 - d. Child moves to another county and it is not convenient for the surrogate to continue to serve in that role; or
 - e. Surrogate parent requests assignment be terminated