Educational Surrogate Parent Referral

Rhode Island Department of Children, Youth and Families
Policy: 700.0000
Effective Date: August 1, 1984 Revised Date: March 1, 2011 Version 4

The Department of Children, Youth, and Families (DCYF) supports educational programming to meet the needs of any child with a disability in the care of DCYF. The Regulations of the Rhode Island Board of Regents for Elementary and Secondary Education Governing the Education of Children with Disabilities defines a child with a disability as "a child, aged 3 to 21, evaluated in accordance with §§ 300.304 through
300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as "emotional disturbance"), an orthopedic impairment, autism spectrum disorder, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services."

If a parent of a child in the care or custody of DCYF with a disability or suspected of having a disability is unable or unwilling to ensure that the needs of that child are met, DCYF seeks appointment of an educational surrogate parent through the Department of Elementary and Secondary Education (RIDE). The educational surrogate parent represents the child in educational matters and advocates for the child's educational needs. For children in the care and/or custody of DCYF, the educational surrogate parent participates in the educational component of the DCYF service plan review. Only the educational surrogate parent is authorized to sign the Individualized Education Plan (IEP) in place of the natural parent. DCYF staff are not authorized to sign the IEP in the place of the parent or guardian.

Related Procedures
Educational Surrogate Parent Referral

Related Policy

Guardianship for Education
Comprehensive Assessment and Service Planning

Educational Surrogate Parent Referral

Procedure from Policy 700.0000: Educational Surrogate Parent Referral

A. The Family Court enters an order indicating whether the parents or the Department of Children Youth and Families (DCYF) makes educational decisions for a child in the care and custody of the state.

1. For children who do not have or are not suspected of having a disability, the primary worker ensures that educational services are provided in accordance with DCYF Policy 700.0115, Guardianship for Education.
2. If the Family Court vests control of a child's education with DCYF, and if the court or DCYF finds that the child has or is suspected of having a disability, the court or DCYF requests the appointment of an educational surrogate parent. The Education Information Sheet (DCYF# 061) with attached documentation of the court decision is submitted by the DCYF primary worker to the DCYF educational surrogate referral staff for processing by the RI Department of Elementary and Secondary Education (RIDE).

B. In the absence of a Family Court order, for children ages 30 months to 21 years identified as or suspected of having a disability:

1. If DCYF has temporary or permanent custody of a child with a disability or suspected of having a disability through a petition of abuse, neglect and/or dependency:
   a. For children placed outside the home on an abuse/neglect petition, RIDE appoints an educational surrogate parent unless DCYF strongly recommends that the parent(s) continues to make educational decisions.
   b. For children placed outside the home on a dependency petition, RIDE notifies the parent(s) that an educational surrogate parent will be appointed unless the parent(s) expresses a desire to remain involved within 10 (ten) days of the date of the letter.
   c. When a child in the custody of DCYF pursuant to a petition for dependency, neglect, or abuse is placed with his/her natural parent(s), the primary worker notifies RIDE through the DCYF educational surrogate referral staff using the DCYF #061.
      i. RIDE advises the parent(s) that he/she retains rights to make educational decisions.
      ii. RIDE sends information on training and educational advocacy to the parents.
      iii. If the parent(s) subsequently fails to be involved in the child's education, DCYF documents lack of involvement and requests an educational surrogate parent appointment. Lack of involvement may be demonstrated by a pattern of behavior including not participating in educational planning for the child.
2. If a child with a disability or suspected of having a disability is placed with DCYF voluntarily:
   a. The primary worker, at the time of signature by the parent(s), asks the parent(s) if he/she will continue to make educational decisions.
   b. The primary worker indicates the decision of the parent(s) on the Voluntary Application/Authorization/Consent for Placement of Children (DCYF# 023) in compliance with DCYF Policy 700.0015, Voluntary Placement.
   c. If the parent(s) continues to make educational decisions, no referral for an educational surrogate parent is necessary.
   d. If the parent(s) does not wish to continue to make educational decisions, the primary worker secures a signed DCYF #062 and attaches it to the DCYF #023, in accordance with DCYF Policy 700.0015, Voluntary Placement. The

~~primary worker ensures that the parent(s) understands that signing the DCYF #062 precludes further parental decision-making in educational matters.~~

e. ~~The primary worker forwards a copy of the DCYF# 062 and the DCYF #061 to the DCYF educational surrogate referral staff for processing by RIDE.~~

3. ~~Wayward/Delinquent Petition~~
   a. ~~If DCYF has temporary or permanent custody on a wayward/delinquent petition and the child is placed with the parent(s), the child is not eligible for an educational surrogate parent.~~
   b. ~~Except as provided in paragraph B 4, if the child is placed outside the home on a wayward/delinquent petition:~~
      i. ~~The parent(s) are invited to participate in service planning. If the parent(s) participates, no referral for an educational surrogate parent is made.~~
      ii. ~~If the parent does not participate in service planning and/or educational planning for the child, a referral for an educational surrogate parent is made with documentation of lack of parental involvement. RIDE notifies the parent(s) that an educational surrogate parent will be appointed unless the parent(s) expresses a desire to remain involved within 10 (ten) days of the date of the letter.~~
      iii. ~~If the parent(s), once active, subsequently ceases to be involved in decisions regarding the child's education, DCYF informs RIDE and requests an educational surrogate parent.~~

4. ~~The RI Training School~~
   a. ~~A referral for an educational surrogate parent is mandatory for a youth sentenced to the Training School when:~~
      i. ~~The child continues to be under the temporary or permanent custody of the DCYF based on a dependency, neglect, and/ or abuse petition and control of the child's education has been vested with the Department.~~
      ii. ~~A child's parental rights are terminated and the Department serves as guardian or a child's parents/guardians are not known or their whereabouts cannot be determined.~~
   b. ~~Except as provided in paragraph B, when a child is sentenced to the Training School and is determined to have a disability or suspected of having a disability, referral for an educational surrogate parent is contingent on the willingness of the parent/guardian to be responsible for decisions regarding the child's education.~~
   c. ~~A determination of the willingness of the parent/guardian to participate in educational planning is made at or before the resident's IEP Meeting.~~
      i. ~~If the parent/guardian states he/she will continue in this role, he/she may do so.~~
      ii. ~~If the parent/guardian expresses or demonstrates an unwillingness to participate in educational planning, the Guidance Counselor secures a signed DCYF #062. Unwillingness to participate may be demonstrated by a pattern of behavior including not participating in treatment and educational planning for the resident.~~

C. ~~Identification of children with disabilities or children suspected of having a disability (described in paragraphs A and B above) is completed by the primary worker:~~
   1. ~~Within the RI Training School, the primary worker is identified by the Director of Special Education Services for the Education Program.~~
   2. ~~In conformance with DCYF Policy 700.0075, Comprehensive Assessment and Service Planning and within the time frame of the formulation of the DCYF #032, Service Plan and before any IEP Meeting.~~

3. ~~For children with disabilities or children suspected of having a disability who are active with the Department functioning under an existing service plan and who are now being placed out of the parental home, identification is made within thirty (30) days of the child's change in legal/placement status.~~
4. ~~The primary worker completes an Authorization to Obtain Confidential Information (DCYF#007B) and an Authorization to Release Confidential Information (DCYF#007A)~~

and makes every effort to secure educational records and evaluation material to aid in the identification of a child's disability.

5. If a disability is suspected, the primary worker refers the child for intervention in cooperation with the local school system according to state and federal law.
6. A referral for an educational surrogate parent for a child who meets the criteria defined in the procedures below is made by submitting the DCYF #061 to the DCYF educational surrogate referral staff. An educational surrogate parent has to be appointed in order to authorize testing.
7. Copies of court documents and/or a signed DCYF #062 are included with the DCYF #061.
8. Information regarding the referral and appointment of an educational surrogate parent must be entered by the primary worker in the educational record in RICHIST.

D. The DCYF educational surrogate referral staff requests the appointment of the educational surrogate parent of RIDE within five (5) working days. The Department of Education notifies the DCYF educational surrogate referral staff and the primary worker when an appointment is made.

1. Once appointed, the educational surrogate parent has the right to:
   a. Meet the child/youth.
   b. Meet residential and educational staff to assess the progress of child/youth.
   c. Review the educational records of child/youth.
   d. Participate in development and approval of the IEP.
   e. Receive grades and educational progress reports.
   f. Participate in educational matters relating to any change in the child/youth's educational programming and discharge planning.
2. All subsequent changes which affect the continued services of the educational surrogate parent are reported by means of the DCYF #061 within five (5) working days to the DCYF educational surrogate referral staff, who notifies RIDE.
3. If an educational surrogate parent is appointed, that individual continues in this role, regardless of changes in placement, as long as the child meets any of the eligibility standards in paragraph B.

E. If the primary worker has not received confirmation of the appointment of an educational surrogate parent within 21 days of referral, he/she contacts the DCYF educational surrogate referral staff.

1. The DCYF educational surrogate referral staff contacts RIDE to check on the status of the referral. If the referral has been denied, he or she requests a reason for the denial.
2. The DCYF educational surrogate referral staff keeps a record of all referrals for educational surrogate parent, the date of the referral and the reason for the denial of any appointments by RIDE.

F. RIDE monitors the performance of educational surrogate parents. DCYF assists by informing RIDE if an issue of concern arises with representation provided by an educational surrogate parent.

1. The primary worker informs the DCYF educational surrogate referral staff.
2. The DCYF educational surrogate referral staff contacts RIDE in writing outlining the issues and requests a written response outlining a plan for intervention.