

VIRGINIA SCHOOL FOR THE DEAF AND THE BLIND

Title: *The Appointment of Surrogate Parents*

Policy Number: S017

POLICY

A Virginia School for the Deaf and the Blind (VSDB) administrator/designee is responsible for (1) identifying VSDB students who require a surrogate parent, and (2) in conjunction with the special education administrator/designee of the placing local educational agency (LEA), appointing a surrogate parent for the student within thirty (30) calendar days after a determination of need as per Virginia Regulations 8 VAC 20-81-220.

Definition of a Surrogate Parent:

A surrogate parent is an adult appointed to serve as a parent representative to the school for a student in all matters relating to identification, evaluation, and education placement, including the provision of a free and appropriate public education. As the parent representative for the student, the surrogate parent works with the school to determine what special education services, if any, the student will receive, how the services will be delivered, and ensure that the rights of the student/child are protected.

Procedure:

- A. A surrogate parent must be appointed for a student, aged two to 21, inclusive, who is suspected of having or determined to have a disability *and*
 - a. no parent(s) or guardian as defined by § 22.1-213.1 of the Code of Virginia and 8VAC 20-81-10 of the Virginia Regulations can be identified,
 - b. the LEA and the VSDB administrator/designee, after reasonable efforts, cannot discover the whereabouts of a parent or guardian,
 - c. the student is a ward of the state; and/or
 - d. the student is an unaccompanied homeless youth

A surrogate parent should *not* be appointed if the parent(s) or guardian is allowing relatives or private individuals to act as a parent.

- B. If the VSDB identifies a student who is in need of a surrogate parent, the VSDB shall inform the LEA about the identification and work in conjunction with the LEA to appoint a surrogate parent for the student within thirty (30) calendar days of determining that the student is in need of a surrogate parent. The VSDB is responsible for frequent communication with the LEA, including coordinating its procedures with the placing LEA's procedures in the appointment of a surrogate parent for the student. The VSDB and LEA may involve the student in the selection process, if appropriate. The LEA retains the ultimate responsibility in appointing a surrogate parent for the VSDB student.

- C. While every effort will be made to appoint a surrogate parent residing in the same jurisdiction as the student's established residence, consideration will be given to individuals willing to serve as a surrogate parent outside the student's established residence if necessary to ensure that someone qualified is available to represent the needs of the student, including participation in meetings pertaining to special education eligibility and services. The VSDB shall assist the LEA by providing a list of individuals within its jurisdiction who are qualified to serve as surrogate parents for those students who may require a surrogate parent in close proximity of the VSDB. Individuals who are not on the VSDB's list may be eligible to serve as surrogate parents, subject to the LEA's discretion. In such situations, the needs of the individual student, the availability of qualified persons who are familiar with the student and the student's disability shall be considered.
- D. To be qualified as a surrogate parent, an individual must (1) have no personal or professional interest that conflicts with the interest of the student, (2) have knowledge and skills that will ensure adequate educational representation of the student, (3) be of the age of majority, and (4) not be an employee of the Virginia Department of Education, the placing LEA, the VSDB, or any other agency that is involved in the education or care of the student. If otherwise qualified, a person will not be considered to be an "employee" of the LEA or the VSDB solely because they are paid to serve as a surrogate parent.
- E. If the student is an unaccompanied homeless youth, the VSDB and LEA special may permit appropriate staff of an emergency shelter, transition shelter, independent living program, or street outreach program to be appointed as a temporary surrogate parent, even though the staff member is an employee of an agency that is involved in the education or care of the student. The temporary surrogate parent must meet all the other required qualifications for a surrogate parent, and may serve only until a surrogate parent who meets *all* of the qualifications for a surrogate parent is appointed.
- F. The VSDB and LEA shall appoint a surrogate parent as the educational representative for a student who reaches the age of majority if the VSDB or LEA has received written notification that the student is not competent to provide informed consent in accordance with 8VAC20-81-180(C)(3) or (C)(4) *and* no family member is available to serve as the student's educational representative.
- G. Once appointed, the VSDB will notify the student and the appointed surrogate parent in writing that the appointment has been made. The surrogate parent will be assigned to serve for the duration of the school year unless a shorter period of time is appropriate. At the end of each school year, the VSDB and placing LEA will review the surrogate appointment and make a determination regarding renewal of the appointment for the following school year. Appointments may also be extended as needed if the student requires the services of a surrogate parent during the summer months.

- H. The surrogate parent, when representing the student's educational interest, has the same rights as those accorded to parents and guardians under the applicable laws and regulations governing educational services for students with disabilities.
- I. Termination of the appointment of a surrogate parent will occur in the following circumstances: (1) the student reaches the age of majority and rights are transferred to the adult student or to an educational representative who has been appointed in accordance with the transfer of rights procedures pursuant to 8 VAC 20-81-180 C and D; (2) the child is no longer eligible for special education services and the surrogate parent has consented to the termination of special education and related services; (3) legal guardianship has transferred to a person who can serve as the parent in special education matters; (4) the parent whose whereabouts previously were unknown is now known and the parent is available; and/or (5) the appointed surrogate is no longer qualified.
- J. An individual has the right to request a hearing to challenge the qualifications of surrogate parent appointment or the termination of an appointment prior to the end of the established appointment period. A request for a hearing may be made to the Superintendent of the VSDB or the LEA. If a request for a hearing is made to the Superintendent of the VSDB, the VSDB will inform the placing LEA and coordinate procedures for the hearing. If the hearing is conducted at the VSDB, the VSDB will convene a panel consisting of the principal, a VSDB board member, and the school board attorney. The panel will hear evidence presented and make a decision.

<p><i>Rescission:</i> Revised: November 2010; Rev. July 2015 BOV Approved: September 21, 2016</p>
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