

281—120.27(34CFR303) Parent.

120.27(1) General. “Parent” means:

- a.* A biological or adoptive parent of a child;
- b.* A foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent;
- c.* 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);
- d.* 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
- e.* A surrogate parent who has been appointed in accordance with rule 281—120.422(34CFR303) or Section 639(a)(5) of the Act.

120.27(2) Rules of construction and application. The following rules are to be used to determine whether a party qualifies as a “parent.”

a. Except as provided in paragraph 120.27(2)“*b*,” the biological or adoptive parent, when attempting to act as the parent under this chapter and when more than one party is qualified under subrule 120.27(1) to act as a parent, must be presumed to be the parent for purposes of rule 281—120.27(34CFR303) unless the biological or adoptive parent does not have legal authority to make educational or early intervention services decisions for the child.

b. If a judicial decree or order identifies a specific person or persons under paragraphs 120.27(1)“*a*” through “*d*” 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 Part C of the Act, 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.

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