

**281—120.422(34CFR303) Surrogate parents.**

**120.422(1) General.** The department or other public agency must ensure that the rights of a child are protected when:

- a. No parent (as defined in rule 281—120.27(34CFR303)) can be identified;
- b. The department or AEA, after reasonable efforts, cannot locate a parent; or
- c. The child is a ward of the state under the laws of the state.

**120.422(2) Duty of other public agencies.**

a. The duty of the AEA under subrule 120.422(1) includes the assignment of an individual to act as a surrogate for the parent. This assignment process must include a method for:

- (1) Determining whether a child needs a surrogate parent; and
- (2) Assigning a surrogate parent to the child.

b. In implementing the provisions under this rule for children who are wards of the state or placed in foster care, the AEA must consult with the public agency that has been assigned care of the child.

**120.422(3) Wards of the state.** In the case of a child who is a ward of the state, the surrogate parent, instead of being appointed by the AEA under subrule 120.422(2), may be appointed by the judge presiding over the infant's or toddler's case provided that the surrogate parent satisfies subrules 120.422(4) and 120.422(5).

**120.422(4) Criteria for selection of surrogate parents.**

- a. The AEA may select a surrogate parent in any way permitted under state law.
- b. The AEA must ensure that a person selected as a surrogate parent:
  - (1) Is not an employee of the department or any other public agency or EIS provider that provides early intervention services, education, care, or other services to the child or any family member of the child;
  - (2) Has no personal or professional interest that conflicts with the interest of the child the person represents; and
  - (3) Has knowledge and skills that ensure adequate representation of the child.

**120.422(5) Nonemployee requirement; compensation.** A person who is otherwise qualified to be a surrogate parent under subrule 120.422(4) is not an employee of the agency solely because the person is paid by the agency to serve as a surrogate parent.

**120.422(6) Surrogate parent responsibilities.** The surrogate parent has the same rights as a parent for all purposes under this chapter.

**120.422(7) Department responsibility.** The department must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

[ARC 7805C, IAB 4/17/24, effective 5/22/24]