

281—41.519(256B,34CFR300) Surrogate parents.

41.519(1) General. Each public agency must ensure that the rights of a child are protected when:

- a. No parent as defined in rule 281—41.30(256B,34CFR300) can be identified;
- b. The public agency, after reasonable efforts, cannot locate a parent;
- c. The child is a ward of the state under the laws of the state; or
- d. The child is an unaccompanied homeless youth as defined in Section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)).

41.519(2) Duties of public agency. The duties of a public agency under subrule 41.519(1) include the assignment of an individual to act as a surrogate for the parents. This must include a method for determining whether a child needs a surrogate parent and for assigning a surrogate parent to the child.

41.519(3) Wards of the state. In the case of a child who is a ward of the state, the surrogate parent alternatively may be appointed by the judge presiding in the child's case, provided that the surrogate meets the requirements in subparagraph 41.519(4) "b"(1) and subrule 41.519(5).

41.519(4) Criteria for selection of surrogate parents.

- a. The public agency may select a surrogate parent in any way permitted under state law.
- b. Public agencies must ensure that a person selected as a surrogate parent:
 - (1) Is not an employee of the SEA, the LEA, or any other public or private agency that is involved in the education or care of the child;
 - (2) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and
 - (3) Has knowledge and skills that ensure adequate representation of the child.

41.519(5) Nonemployee requirement; compensation. A person otherwise qualified to be a surrogate parent under subrule 41.519(4) is not an employee of the agency solely because the person is paid by the agency to serve as a surrogate parent.

41.519(6) Unaccompanied homeless youth. In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to subparagraph 41.519(4) "b"(1), until a surrogate parent can be appointed that meets all of the requirements of subrule 41.519(4).

41.519(7) Surrogate parent responsibilities. The surrogate parent may represent the child in all matters relating to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child.

41.519(8) Training of surrogate parents. Training will be conducted as necessary by each AEA using a training procedure approved by the department, which includes rights and responsibilities of a surrogate parent, sample forms used by LEAs and AEAs, specific needs of individuals with disabilities and resources for legal and instructional technical assistance. The department will provide continuing education and assistance to AEAs upon request.

41.519(9) SEA 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.

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