

**STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES**

PUBLIC NOTICE OF PROPOSED RULE-MAKING

In accordance with Rhode Island General Law (RIGL) 42-35 and 42-72-5, notice is hereby given that the Department of Children, Youth and Families proposes to repeal the following DCYF rule:

SURROGATE PARENT REFERRAL

This rule is being repealed because it is addressed in other existing or proposed new rules.

In the repeal of this rule, consideration was given to the following: (1) alternative approaches and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach or duplication or overlap was identified based upon available information.

This repealed rule is accessible on the R.I. Secretary of State's website (<http://www.sec.state.ri.us/ProposedRules/>) and the DCYF website (<http://www.dcyf.ri.gov>) or available in hard copy upon request (401-528-3685). Interested persons should submit data, views or written comments by January 23, 2011 to Susan Bowler, Administrator for Families and Children, Department of Children, Youth and Families, 101 Friendship Street, Providence, RI 02903 (Susan.Bowler@dcyf.ri.gov).

In accordance with RIGL 42-35-3, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

Surrogate Parent Referral

Rhode Island Department of Children, Youth and Families

Division of Juvenile Correctional Services: RI Training School

Policy: 1200.1518

Effective Date: January 1, 1988

Version: 1

The Division of Juvenile Correctional Services offers a state-certified special education program through the Youth Career Education Center for children sentenced to the Rhode Island Training School for Youth. It is the intent of the Division to insure that the educational needs of these children are met and that their educational rights are protected. To this end, the parents/guardians of these children are encouraged to participate in all educational planning and to serve as advocates for these children in the development of a needs-specific Individual Education Plan (IEP). If the parents/guardians are unwilling or unavailable to participate, a process has been developed through which the Division will request that the Rhode Island Department of Education assign a Surrogate Parent to fulfill this role. In the event a Surrogate Parent was assigned to a child prior to his/her admission to the Training School, that individual shall continue in this role while the child is in residence.

A Surrogate Parent is a volunteer recruited and trained by the Rhode Island Department of Education to represent and advocate for the best interests of the child in all educational matters. He/she participates in all educational planning for the child and is the only person authorized to accept or reject the child's Individual Education Plan (IEP) in place of the parent.

This policy is in conformance with the mandates of Public Law 94-142, with the Regulations of the Board of Regents Governing the Special Education of Handicapped Children and with the Federal District Court Consent Judgement (C.A. No. 82-0091P) and an interagency agreement between the Department of Children, Youth and Families and the Department of Education regarding the Surrogate Parent referral process.

Related Procedure...

[Surrogate Parent Referral](#)

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Procedure From Policy 1200.1518: Surrogate Parent Referral

A. ~~Definition of Handicapping Conditions~~

- ~~1. Public Law 94-142 and the Regulations of the Board of Regents Governing the Special Education of Handicapped Children are the sources used to define a handicapping condition.~~
- ~~2. Handicapped children are defined as "all children who are behaviorally disordered, mentally retarded, physically handicapped (health impaired, hearing, homebound, orthopedic, speech and visually), multi-handicapped, and learning disabled".~~
 - ~~a. Any child so defined shall be eligible for special education upon the attainment of his/her third birthday and until such time as he/she has completed high school or reaches the age of twenty-one (21), whichever comes first.~~
 - ~~b. For purposes of identifying a suspected handicapping condition, particular attention should be given to "children failing two or more subjects at mid-year, children failing to be promoted at the end of the school year, children frequently suspended from school, children excluded from school, children with unexplained absences from school, and children who demonstrate any negative change in alertness, learning or behavioral capacity~~

B. ~~Identification Process~~

- ~~1. The Department of Children, Youth and Families has the responsibility to identify children in its care who have or are suspected of having a handicapping condition.~~
- ~~2. A Diagnostic Evaluation/Individual Treatment Plan (DE/ITP) and a Diagnostic Individual Education Plan (DIEP) shall be developed for each resident of the Rhode Island Training School for Youth within twelve (12) days of admission.~~
 - ~~a. Any preliminary testing and/or evaluation, including requests for existing records or other material, shall be completed within this twelve (12) day period or as soon thereafter as possible.~~
 - ~~b. Based on all available material a Diagnostic Individual Education Plan (DIEP) shall be formulated at the Youth Career Education Center Multi-Disciplinary Team meeting.~~
 - ~~I. The resident, his/her parents/guardians, the Coordinator of Clinical Services, the Clinical Social Worker and the Coordinator of Special Education or his/her designee shall participate in the development of this plan.~~
 - ~~II. The DIEP is a forty-five (45) school day plan after which a full Individual Education Plan (IEP) shall be developed where applicable.~~
 - ~~III. The parents/guardians shall have the authority to accept or reject the DIEP. If accepted the parents/guardians shall sign the document at the Multi-Disciplinary Team meeting.~~
 - ~~IV. If the parents/guardians are unwilling or unavailable to participate in this planning process, a Surrogate Parent shall be requested from the Department of Education.~~
- ~~3. Residents exempted from this process include those detained awaiting trial, those awaiting probable cause hearings, those whose sentence or placement planning does not provide a forty-five (45) school day evaluation period and those detained awaiting placement at the McCabe Juvenile Diagnostic Center.~~
- ~~4. If the child is already active with the Department upon his/her admission to the Training School and already has a Surrogate Parent assigned, that individual shall continue in this role while the child is in residence.~~
 - ~~a. The previous DCYF worker/counselor has the responsibility to notify the School Social Worker of the name and address of the Surrogate Parent prior to the DE/ITP meeting.~~

- ~~b. All efforts must be made to include the Surrogate Parent in the preliminary educational evaluation process and in the development of the Diagnostic Individual Education Plan (DIEP).~~

~~C. Criteria for Referral for a Surrogate Parent~~

- ~~1. Once a child has been determined to be handicapped or there is cause to suspect the existence of a handicapping condition, a referral for the assignment of a Surrogate Parent is mandatory when:
 - ~~a. A child sentenced to the Training School for Youth continues to be under the temporary or permanent custody of the Department of Children, Youth and Families based on a dependency, neglect, and/or abuse petition and control of the child's education has been vested with the Department (see RIGL 33-15-1.1).
 - ~~I. If control has been vested by the court, referral procedures are followed as indicated (see within, Section D).~~
 - ~~II. If control has not been vested with the Department or this cannot be determined, the DCYF representative present in court shall request this of the court.~~~~
 - ~~b. A child sentenced to the Training School for Youth has had parental rights terminated and the Department serves as guardian.~~
 - ~~c. A child is sentenced to the Training School for Youth and his/her parents/guardians are not known or their whereabouts cannot be determined.
 - ~~I. Reasonable efforts must be made to ascertain the whereabouts of the parents/guardians.~~
 - ~~II. Reasonable efforts are defined as:
 - ~~a) A registered letter sent to the last known address of the parents/guardians.~~
 - ~~b) A registered letter sent to the parents/guardians in care of known relatives or friends.~~
 - ~~c) Direct contact (oral or written) with known relatives or friends.~~
 - ~~d) Contact with DHS or other agencies/service providers known to be involved with the family.~~~~~~~~
- ~~2. When a child is sentenced to the Training School for Youth based on the adjudication of a wayward/delinquent petition and is determined to be handicapped or is suspected of having a handicapping condition, referral for a Surrogate Parent is contingent on the willingness of the parent/guardian to continue to be responsible for decisions regarding the child's education.
 - ~~a. If a DCYF representative is present in court at the time of the adjudication and sentencing, that representative shall ask the parent/guardian (if present) to stipulate on the Family Court record whether or not they intend to continue to act as the person responsible for the child's educational planning.
 - ~~I. If the parent/guardian states he/she will continue in this role, he/she may do so.~~
 - ~~II. If the parent/guardian states he/she does not wish to continue in this role, the court shall be requested to vest control of the child's education with the Department (see RIGL 33-15-1.1).
 - ~~a) A signed Waiver of Educational Participation (DCYF #062) shall be secured from the parent/guardian by DCYF representative at court.~~
 - ~~b) The waiver shall be forwarded to the Y.C.E.C. Social Worker to initiate a referral for a Surrogate Parent.~~~~~~
 - ~~b. If no DCYF representative is present in court at the time of adjudication and sentencing or if the parent/guardian is not present, a determination of the parent's/guardian's willingness to participate in educational planning shall be made at the resident's DE/ITP 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 School Social Worker will attempt to secure a signed Waiver of Educational Participation (DCYF #062) allowing for the referral for a Surrogate Parent.
 - ~~a)—Demonstrated unwillingness includes, but is not limited to, refusal to sign releases and/or consents, repeated failure to return mailed releases and/or consents, refusal to allow appropriate Training School staff to visit the home, failure to keep scheduled appointments or school conferences and/or failure to respond to mail or phone contacts.~~
 - ~~b)—If the parent/guardian refuses to sign or repeatedly fails to return a signed Waiver of Educational Participation (DCYF #062), the Training School shall proceed with testing and programming (as stipulated in Federal District Court Order C.A. No. 4529) and a referral shall be made to initiate the involuntary assignment procedure for a Surrogate Parent (see Regulations for the Education of Handicapped Children, Section IX).~~~~

~~D.—Referral Process~~

- ~~1.—Prior to or during the DE/ITP meeting a determination must be made of the need for a Surrogate Parent referral.~~
- ~~2.—Once the need for a Surrogate Parent referral has been determined, the School Social Worker shall complete an Education Information Sheet (DCYF #061) and shall forward it to the DCYF Educational Coordinator.
 - ~~a.—This shall be done within five (5) working days of the DE/ITP meeting.~~
 - ~~b.—Included with the Education Information Sheet (DCYF #061) shall be copies of court documents and/or a signed Waiver of Educational Participation (DCYF #062) documenting the parent's unavailability or unwillingness to continue to participate in educational planning for the child.~~~~
- ~~3.—Upon receipt of the Education Information Sheet and other supportive documentation, the DCYF Educational Coordinator shall send a formal request to the Department of Education within five (5) working days for the appointment of the Surrogate Parent.~~
- ~~4.—The Department of Education shall notify the DCYF Educational Coordinator and the School Social Worker of the appointment of a Surrogate Parent.~~
- ~~5.—Once appointed, the Surrogate Parent shall:
 - ~~a.—Be invited to meet the resident.~~
 - ~~b.—Have the right to meet appropriate unit and school staff to assess the resident's progress.~~
 - ~~c.—Have the right to review the Y.C.E.C. school file of the resident.~~
 - ~~d.—Participate in the development and approval of the Individual Education Plan (IEP).~~
 - ~~e.—Receive quarterly grades and other appropriate educational progress reports~~
 - ~~f.—Be involved in any anticipated change of the resident's educational program.~~
 - ~~g.—Participate in educational matters relating to discharge planning.~~~~
- ~~6.—All subsequent changes which affect the appointment of, or continued services of, the Surrogate Parent, such as but not limited to change in legal status, location of the parent/guardian or discharge from the Training School, are reported by the School Social Worker to the DCYF Educational Coordinator by means of the Education Information Sheet (DCYF #061).
 - ~~a.—This is completed within five (5) working days after the change occurs.~~
 - ~~b. a. The DCYF Educational Coordinator shall send subsequent notification of the change to the Department of Education.~~~~

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