



Kathryn S. Herel, Program Coordinator
 Educational Surrogate Parent Program
kherel@picofdel.org
 (302) 494-4798

New Castle County Office
 6 Larch Avenue, Suite 404
 Wilmington, DE 19804
 302.999.7394
Kent/Sussex Office
 13 Bridgeville Road
 Georgetown, DE 19947
 302.856.9880
Toll-free Statewide
 888.547.4412
www.picofdel.org

When should you (the DFS worker) request an Educational Surrogate Parent (ESP)?

A reference sheet for DFS workers

Family situation	Should you submit a referral for an ESP?
Child in care already receives special education services AND <ul style="list-style-type: none"> • Biological parents' rights have been terminated or Biological parent cannot be identified, located or is not available on consistent and reliable basis; and • There is no legal guardian; and • There is no relative caregiver. 	YES http://www.picofdel.org/services/educational-surrogate-parent-program.html
The school is conducting an evaluation (which requires parental consent) for the child in care to determine if he/she is eligible for special education services AND <ul style="list-style-type: none"> • Biological parents' rights have been terminated or Biological parent cannot be identified, located or is not available on consistent and reliable basis; and • There is no legal guardian; and • There is no relative caregiver. 	YES http://www.picofdel.org/services/educational-surrogate-parent-program.html
Child in care already receives special education services AND <ul style="list-style-type: none"> • Parent is incarcerated or not always available, but is working with you (the DFS worker) to comply with case/family plan. 	NO
The school is conducting an evaluation (which requires parental consent) for the child in care to determine if he/she is eligible for special education services AND <ul style="list-style-type: none"> • Parent is incarcerated or not always available, but is working with you (the DFS worker) to comply with case/family plan. 	NO
Child in care has a Section 504 accommodation plan.	NO

When a child is in DSCYF custody, you the DFS worker may choose to make a referral for an Educational Surrogate Parent (ESP) without getting the consent of the parent.

Please communicate that decision to the parent so that the parent is aware of the decision.

Parent participation for a student receiving special education services is a requirement under the federal law called the Individuals with Disabilities Education Act (IDEA), or more commonly called, “special education”.

Who is a “parent” for special education purposes?

1. A biological or adoptive parent of a child;
2. A guardian authorized to act as a child’s parent or authorized to make educational decisions for the child but not the State if the child is a ward of the State;
3. An individual acting in the place of a biological or adoptive parent and with whom the child lives - A Relative Caregiver’s School Authorization is needed (dhss.delaware.gov/dhss/dsaapd/sample.html);
4. An individual who is legally responsible for the child’s welfare; **OR**
5. A **surrogate parent** who has been appointed by the Dept. of Education - *The appointment occurs after the individual participates in training with PIC and is recommended to be an ESP by PIC.*

If you have a child on your caseload who does not have a “parent” as defined above, you will want to make a referral <http://www.picofdel.org/services/educational-surrogate-parent-program.html> for an ESP.

Here are some tips to help you make an informed decision about whether to make a referral for an ESP:

1. Does the child receive special education services or do you think he/she needs such services?
Children who do not receive special education services or are not being evaluated for such services are not entitled to an ESP. This includes students who have 504 accommodation plans.
2. Are parental rights terminated? If so, is there a legal guardian or relative caregiver?
If not, submit a referral for an ESP.
3. Is the parent involved and is that part of your case or family service plan?
***Generally speaking**, request an ESP when the parent cannot be located, identified or is not available to you on a consistent and reliable basis. A parent who appears and disappears is probably not meaningfully involved in the child’s education, so an ESP is probably warranted. Other situations where a parent is incarcerated, or is sometimes difficult to reach, but is still actively engaged in their child’s education, require more thought before making a referral.*

If you continue to work with a parent, but have chosen to make the referral for an ESP, it is important that you communicate that decision to the parent. The parent should know that the decision for another person to assume the educational rights was made by DFS, not the school.

Appointment of an Educational Surrogate Parent (ESP)

The decision about whether a child qualifies for an ESP is made by the ESP Program based on information gathered from both DFS and the school. If it is determined that the child is in need of an ESP, the ESP Program will make reasonable efforts to have an ESP appointed within 30 days.

The appointment of an ESP must be approved by the Dept. of Education. Once appointed, a letter (with contact information) will be sent electronically by the Dept. of Education to the parties involved. Parties include: ESP, DFS, OCA (Office of the Child Advocate), District Special Education Director and building Educational Diagnostician (ED), Special Education Coordinator or Case Manager. Others, specific the case, may be copied on the letter.

Role of an Educational Surrogate Parent (ESP)

Once an individual has been appointed as an ESP, he/she assumes the same rights and responsibilities as a parent under IDEA. The ESP is to be included in all educational decision-making related to special education (identification, evaluation, educational placement of a student and provision of a free appropriate public education).