

# Handbook for Educational Surrogate Parents (ESPs) in Delaware (Surrogate Parents of School-Age Children)

## Surrogate Parent Program Contact Information:

Parent Information Center of Delaware  
Kathryn S. Herel, Educational Surrogate Parent Program Coordinator  
(302) 999-7394, ext. 1110  
[kherel@picofdel.org](mailto:kherel@picofdel.org)  
[www.picofdel.org](http://www.picofdel.org)

*The Parent Information Center of Delaware administers the  
Surrogate Parent Program through a contract with  
the Delaware Department of Education.*



## **Message to Educational Surrogate Parents (ESPs)**

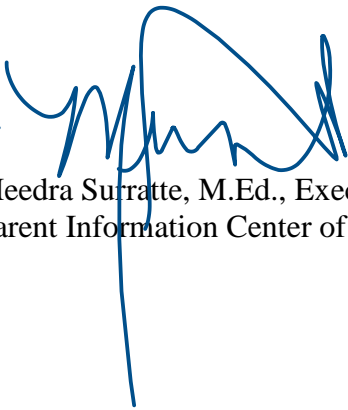
*There are over 600 children in Delaware at any time who need foster family care through the Division of Family Services (DFS). Many of these children will continue a foster care experience and have at least two foster home placements, with some having up to ten placements. Changes in foster home placements frequently result in a change of school placement. Statistics show that approximately four to six months of academic progress is lost each time a child experiences a change in school placement. (Sources: CPAC FY2023 Annual Report, Casey Family Programs, DSCYF Child and Family Services Plan/2020 Annual Progress and Services Report)*

*Children in foster care also experience trauma and life difficulties that are often beyond our scope of understanding. There are numerous agencies involved in their care and many professionals with various roles who will come in and out of their lives.*

*Your work as an Educational Surrogate Parent (ESP) is critical to the educational success of a child in foster care. Please know that the time you invest in being an ESP is an investment in a child who does not have a “parent” to fulfill that role adequately. Your focus on educational issues is vital to ensuring that a child receives appropriate educational services, a critical step to creating a positive and healthy school experience.*

*We hope this handbook provides useful information and guidance to you as an ESP. We also encourage you to continue learning about your role as an ESP and the special education process. The greater your experience and knowledge, the more effective you will be as an educational advocate.*

*Thank you for your interest and time.*



Meedra Surratte, M.Ed., Executive Director  
Parent Information Center of Delaware, Inc.



Dale Matusevich, Director  
Exceptional Children Resources  
Delaware Department of Education

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## CHAPTER 1 – Educational Surrogate Parents (ESPs) in Delaware

### a. What is the Surrogate Parent Program?

The Surrogate Parent Program was established under the federal law called the Individuals with Disabilities Education Act or IDEA.

Part C of this law applies to children from birth to three years of age, while Part B applies to children from three through 21 years of age.

For school-age children, IDEA requires that eligible children with disabilities be provided a free appropriate public education or special education and related services.

IDEA also includes a number of entitlements for children and parents. One entitlement describes the provision for a Surrogate Parent. A Surrogate Parent is to be appointed by the Department of Education (DOE) to represent a child who receives, or may be in need of, special education and related services, AND who does not have a “parent” as defined by IDEA.

The Parent Information Center (PIC) of Delaware administers the Surrogate Parent Program through a contract with the Delaware Department of Education (DOE).

PIC recruits, trains and supports volunteer advocates to represent the educational interests of children with disabilities in Delaware’s foster care system. PIC also provides training and support to school teams and agencies working with children in Delaware’s foster care system,

Surrogate Parents appointed for school-age children are referred to as Educational Surrogate Parents or ESPs.

### b. Who can become an Educational Surrogate Parent (ESP)?

Individuals who have met the qualifications, annual training requirements and completed the necessary paperwork are eligible to assume the role of an ESP. Per IDEA, eligible candidates must:

- Be at least 18 years of age;
- Be a legal resident of the United States;
- Be competent to represent the child;
- Not be an employee of the Department of Education, a school district or any other public or private agency responsible for, or involved in the education or care of the child;
- Have no personal or professional interest that conflicts with the interest of the child he or she may represent;
- Be able to converse in the primary communication mode used by the child whenever possible;
- Have knowledge and skills that ensure adequate representation of the child; **AND**
- Receive training about federal special education law and Delaware regulations, including due process procedures, disability conditions, educational programs, and special education services for children with disabilities (as required by DOE in consultation with the Surrogate Parent Program at Parent Information Center).

## CHAPTER 2 – The Appointment Process

### a. Which Children Are Eligible for an ESP?

Children with disabilities who receive, or may be in need of, special education and related services are eligible for an ESP if a “parent” is not identified or located as defined by IDEA.

IDEA defines a parent as:

- A biological or adoptive parent of a child;
- 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;
- A guardian authorized to act as the 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);
- An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) and with whom the child lives – In Delaware, a Relative Caregiver’s School Authorization is required ([dhss.delaware.gov/dhss/dsaapd/sample.html](https://dhss.delaware.gov/dhss/dsaapd/sample.html));
- An individual who is legally responsible for the child’s welfare; **OR**
- A **surrogate parent** who has been appointed in accordance with IDEA – In Delaware, appointed by the Department of Education (DOE)

Schools that cannot identify or locate an IDEA defined parent are encouraged to work with the Division of Family Services (DFS) and/or the Surrogate Parent Program to determine who has parental rights of the child and whether the child is eligible for an ESP.

### b. How is a child appointed an ESP?

A child may be identified as possibly needing an ESP by the following agencies:

- **School/District:** A school district has a responsibility to identify children who they believe do not have a parent holding parental rights. This is not the same as parents whom the school may find hard to reach or not agreeable. Any school team member with questions or concerns about a child’s need for an ESP is encouraged to contact the Surrogate Parent Program Coordinator at PIC.
- **DFS:** The Division of Family Services (DFS) is the state agency that oversees children in foster care. If a DFS worker believes that a child in custody needs an ESP, the worker will submit a referral to the Surrogate Parent Program.

To determine a child’s eligibility for an ESP, the Surrogate Parent Program follows a protocol of gathering and verifying information with various sources including DFS, schools and other stakeholders.

If it is determined that the child is in need of an ESP, the Surrogate Parent Program will make reasonable efforts to identify a qualified candidate and will make a recommendation to the Department of Education (DOE) for appointment within 30 days.

The appointment of an ESP must be approved by DOE. Once appointed, a letter (with contact information) will be sent electronically by DOE to the stakeholders involved including: ESP, DFS, worker, and OCA (Office of the Child Advocate). The District Special Education Director and appropriate building personnel (Educational Diagnosticians, Case Manager) will also be copied on the letter.

*\*A sample appointment letter from DOE is included with this handbook.*

## CHAPTER 3 – Role, Qualifications, Requirements and Rights of ESPs

### a. What is the role of an ESP?

Once appointed by DOE, the ESP assumes the education related parental rights and responsibilities for a child receiving special education and related services under IDEA and Delaware special education regulations (Title 14 Education Delaware Administrative Code).

A Surrogate Parent appointed for a school-age child acts as the child’s parent for special education purposes **only**. The ESP has the same rights as any parent in the special education process including the right to:

- Provide consent for educational evaluations to determine eligibility for special education and related services;
- Participate in team meetings to review evaluations and to determine a child’s eligibility for special education and related services;
- Work with a team to develop an IEP (Individualized Education Program);
- Receive timely notices of meetings;
- Receive Prior Written Notice (PWN) before the school district proposes to (or refuses to) initiate or change the identification, evaluation, educational placement of a child or the provision for a free appropriate public education;
- Receive progress reports;
- Agree or disagree about the special education and related services and work with the IEP team to resolve conflicts through dispute resolution procedures; **AND**
- Review school records and observe the child’s classroom (adhering to school policies around such).

Once appointed, the ESP assumes these parental rights even if a biological parent remains involved with the child (involvement is at the discretion of DFS).

*Note: Interaction with the child must be at school only and with other adults present. Typically, you will meet the child just before or at their IEP meeting. You may also observe the child’s classroom with school approval.*

### b. What are the qualifications to become an ESP?

The following qualifications are set forth by IDEA and Delaware State Regulations. An eligible candidate must:

- Be at least 18 years of age;
- Be a legal resident of the United States;
- Be competent to represent the child;
- Not be an employee of DOE, a school district or any other public or private agency responsible for, or involved in the education or care of the child;
- Have no personal or professional interest that conflicts with the interest of the child he or she may represent;
- Be able to converse in the primary communication mode used by the child whenever possible;
- Have knowledge and skills that ensure adequate representation of the child; **AND**
- Receive training from PIC about federal laws and state regulations as required by DOE, including due process procedures, disability conditions, educational programs, and special education services for children with disabilities.

**c. What are the training requirements?**

The annual mandatory training requirements are as follows:

**NEW ESP** (never taken ESP training or is not current with annual training requirements):

1. Participate in an initial training that includes the role and responsibilities of an ESP and an overview of special education and the foster care system.
2. Thereafter, participate in annual refresher training (format varies) to maintain eligibility status.

**EXISTING ESP** (Current with annual training requirements):

1. Participate in annual refresher training (format varies) related to ESP Program updates, special education news and other relevant topics. Fulfill the annual refresher training requirement by participating in a PIC sponsored event or an individual on-line training provided by Surrogate Parent Program Coordinator.

Although not required, possessing knowledge of special education and/or the foster care system is extremely beneficial. Continuing that knowledge by participating in learning opportunities offered by PIC and other agencies/organizations is always encouraged. Additional training may also be requested or required by the Surrogate Parent Program as needed on an individual basis.

**d. What are the educational rights and responsibilities of an ESP?**

The ESP is to be included in all decisions related to the provision of special education and related services.

An ESP will advocate for a child's free appropriate public education (FAPE) by exercising their right to:

- Provide consent for educational evaluations to determine eligibility for special education and related services;
- Review school records and observe the child's classroom (adhering to school policies around such);
- Participate in team meetings to review evaluations and to determine a child's eligibility for special education and related services;
- Work with a team to develop an IEP (Individualized Education Program);
- Receive timely notices of meetings;
- Receive Prior Written Notice (PWN) before the school district proposes to (or refuses to) initiate or change the identification, evaluation, educational placement of a child or the provision for a free appropriate public education;
- Receive progress reports; **AND**
- Agree or disagree about the special education and related services and work with the IEP team to resolve conflicts through dispute resolution procedures.

An ESP is responsible for:

- Abiding by established school rules, policies and/or codes of conduct; **AND**
- Communicating regularly with the Surrogate Parent Program Coordinator at Parent Information Center (PIC).

**e. What is expected and required of an ESP?**

All ESPs are expected to:

- Be aware of and abide by all established school policies, rules and codes of conduct;
- Provide personal identification (as requested) at a school when signing in for meetings;
- Carry a copy of their appointment letter to school meetings;
- Introduce self to other team members and briefly explain the ESP role (as needed);
- Participate in required annual IEP meetings;
- Participate in other relevant meetings as needed;
- Stay current with the child's performance and progress;
- Keep all information confidential and securely shred or dispose of records when an appointment has ended; **AND**
- Continue learning about the special education process and how to advocate effectively.

All ESPs are responsible for providing updates to the Surrogate Parent Program Coordinator at least one time per month. You may use the ESP Child Update Form or provide the content in an email or phone call.

*\*A sample Child Update Form is included with this handbook.*

**An ESP is required to contact the Surrogate Parent Program Coordinator if any of the following occur:**

- **You are subpoenaed to court;**
- **You are contacted by any attorney other than the child's attorney (who is assigned through court and works under the supervision of the Office of the Child Advocate);**
- **You are contacted by any other person seeking information about the child whom you do not know to be involved with the case;**
- **You believe your ESP work presents a conflict of interest; OR**
- **You feel uncomfortable about any aspect of your position.**

Community volunteers are encouraged to continue with their appointed child for as long as possible and/or as appropriate. Foster parents are expected to remain with their appointed child only while the child is living in their home.

All ESPs should include their contact information and title of "Educational Surrogate Parent" or "ESP" on all correspondence related to their ESP work with the child (example: emails to the school, IEP signature page, etc.).

All ESPs are encouraged to be proactive and to stay actively engaged with their team and in the special education process.

An ESP is expected and encouraged to ask for help. If you are unsure, frustrated, confused or just don't know what to do next, please contact the Surrogate Parent Program Coordinator before a situation escalates or you feel overwhelmed.

ESPs represent PIC and should always perform their duties in a professional and respectful manner.

All ESPs will automatically receive PIC's weekly e-newsletter which includes resources, events and information around numerous topics related to special education, disabilities, school systems



and more. Together with required annual training, it is encouraged that ESPs continue learning and seeking resources to stay connected with relevant and up-to-date information to enhance their role as an ESP.

**f. What is the time commitment when serving as an ESP?**

Although an ESP is required to attend at least one annual IEP meeting per year, each student appointment varies. Effective advocates are pro-active and request meetings aside from the required annual one, monitor progress regularly and have periodic check ins (phone, email, in-person) with their school team(s) and Surrogate Parent Program Coordinator.

Approximate hours may range from four hours per month to more during the school year depending on the situation and number of children appointed.

**g. What meetings are required of ESPs?**

Required - IEP Meetings: Based on IDEA and Delaware special education regulations, an IEP meeting is required at least one time per year. You, as an ESP, must be invited to and participate in IEP meetings. Although required only annually, depending on the child's case, you may be involved in more than one IEP meeting during a school year.

Optional, but encouraged - Best Interest Meetings (BIM): Best Interest Meetings are held when a child enters foster care, changes foster homes and at the end of the school year. The purpose is to determine which school district will serve the child given the change that has occurred. Because it is not an IEP meeting, an ESP is not required to be in attendance. Many districts and/or DFS workers, however, will invite an ESP to the Best Interest Meeting. Your participation is certainly encouraged and you can assist the team in determining whether it is in the best interest of the child to change school districts given their new circumstances. Other adults who can help make educational decisions, and the student when appropriate, should participate.

**h. When does the ESP role end?**

The ESP's role with their appointed child ends when the:

- Child is no longer in the custody of the Division of Family Services (DFS). Reasons verified by DFS may include: adoption, legal guardianship granted, reunification with a family member and/or the child moved out-of-state.
- Student is no longer eligible for special education services;
- Student graduates from high school and is no longer enrolled in the public school system; **OR**
- Student enrolls in a GED program and is no longer enrolled in the public school system.
  
- Student turns 18 years of age: The role of an ESP most likely will end when the student turns 18 (age of majority) and assumes their own rights. This is an IEP team decision that involves the IEP team determining whether the student can make an informed decision about his education. The IEP team uses a DOE document to help guide the discussion for their decision. The IEP team should have this discussion at least one year prior to the student's birthday and re-visit as appropriate.

If the IEP team determines that the student can provide informed consent about his education, then the student will assume his rights and the ESP role will end. If the IEP team determines that the student is not able to provide informed consent, the IEP team will request that an Educational

Representative be appointed. The currently appointed ESP may be asked and if agreeable, can continue assuming the parental rights for the student as an Educational Representative. An Educational Representative has the same parental rights as an ESP.

- The role of an ESP may also be discontinued by DOE if the ESP’s actions or advocacy is found to not be in the best interest of the child.
- An ESP may also resign their role by notifying the Surrogate Parent Program Coordinator in writing.

## **CHAPTER 4 – Questions from ESPs**

### **a. When do I meet my appointed child?**

When you meet your appointed child it must be at school only and when other adults are present. This is a safety precaution for both you and the child.

For children who participate in their IEP meetings, it is common for you to meet the child initially just before their IEP meeting. This can be arranged through contact with the school’s Educational Diagnostician, Special Education Coordinator or case manager.

For younger children who do not participate in their IEP meetings, you may see them rather than meet them through a classroom observation.

Remember that in your role as the ESP, you are responsible for protecting the child’s parental rights in the special education process. It can be confusing for the child if you step outside of the boundaries of the special education process. Children in foster care experience numerous transitions and traumatic experiences. It is essential that the ESP recognize their role as an educational advocacy one and respect the roles of other support team members.

We recognize the challenge of making decisions for a child you may not know well, however, each team member has a unique and important role. Together with your knowledge and experience, you will gain information from the school team and other stakeholders that will assist you in making decisions with the IEP team.

### **b. What about confidentiality of my work?**

Each ESP is required to sign an “Agreement of Volunteer Services” which includes agreeing to keep all information about the child confidential. Additionally, at the end of an appointment, all paper records related to the child and the case should be shredded or disposed of responsibly.

### **c. What is the best way to communicate with IEP and other team members?**

An ESP should be familiar with using email to communicate and be able to download attachments. For confidentiality reasons, *an email address should belong to the ESP only and not be shared with another person*. ESPs should include their contact information and title of “Educational Surrogate Parent” or “ESP” on all correspondence related to their ESP work with the child (emails, IEP, etc.).

### **d. Who should I contact at the school about my appointed child?**

Once appointed, an ESP should make contact with the Educational Diagnostician, Special Education Coordinator or case manager at the school. This person’s name and contact information

is included in the ESP appointment letter. This person is generally responsible for coordinating meetings and working with you to participate in your appointed child's IEP process.

**e Who are the other support team members?**

Aside from school teams which often include teachers, counselors, nurses and other education specialists, children in foster care have many support team members working with them who you will meet at various times. Each plays a distinct and important role in the life of the child. Be aware of the boundaries of your role as an ESP and respect the role of all team members.

Agency support workers (social workers, therapists and other personnel) from **DSCYF (Department of Services for Children, Youth & their Families)** may participate in the special education process. These include staff from:

- **DFS** (Division of Family Services) – Investigates child abuse, neglect and dependency, offers treatment services, foster care, adoption and independent living services.
- **PBHS** (Prevention & Behavioral Health Services) – Serves Delaware families through prevention and early intervention programs that promote safe and healthy children, nurture families and communities, support social and academic success, and improve early identification of needs. PBHS also serves eligible families of children and youth (through age 17) with behavioral health treatment needs.
- **YRS** (Youth & Rehabilitative Services) – Juvenile justice agency responsible for assessing the needs of youth and collaborating with their families, school, and support systems to coordinate services aimed at addressing the factors that contributed to delinquency.

**Other support team members may include:**

- **Foster Parent** – A person who provides care in their home for a child who has been removed from a home due to abuse, neglect or dependency. DFS, as well as several agencies (such as A Better Chance for Our Children, Pressley Ridge, Child, Inc., Children & Families First and Progressive Life Center) administer foster care programs.
- **Attorney** – An attorney for the child is appointed by Family Court to represent the child in dependency/neglect proceedings. The attorney for the child is employed by or contracted with the Office of the Child Advocate and advocates for the child's best interests and express wishes. In some cases, the attorney for the child works in conjunction with a CASA (Court Appointed Special Advocate) worker to represent the best interests of the child. You may hear the term “child attorney”, “Guardian Ad Litem” or GAL”.
- **Education Decision Maker** – An Education Decision Maker is a person designated by Family Court to make education decisions for a child who has been found to be abused, neglected, dependent, delinquent or whose parents are unable, unavailable, or consents to an Education Decision Maker. If there is a disagreement regarding any part of the IEP process or special education services between the Education Decision Maker and the ESP, the authority rests with the ESP.

Many people may participate in the special education process aside from required IEP team members. *Unless the individual has an ESP appointment letter for the child, that individual is not the ESP and does not have the same IDEA rights and responsibilities as the ESP.*

**f. How do I handle opinions I have about the child's case?**

As an ESP, you will learn about a child's background and family situation. Some of what you learn may be disturbing and differ vastly from your own values and experiences. Please do not impose your personal and/or religious beliefs on others. And remember that you are one team member focusing on education and do not have ability to fix the situation single handedly.

**g. What is the liability for me as an ESP?**

The IDEA clearly states that an ESP is not held liable for any action taken in good faith on behalf of their appointed child.

**h. Will I be paid for my work?**

The role of an ESP is a volunteer position, and we hope a very rewarding one. Parent Information Center will, however, compensate an ESP *who is not already being compensated by another agency* for reasonable and necessary expenses incurred while performing ESP duties. Expenses include mileage for attending school meetings; tolls; parking; long distance phone calls to the school the child attends; and/or photocopying of relevant school records. Please note that travel to out-of-state facilities or expenses incurred other than those listed must be approved by the Surrogate Parent Program Coordinator prior to requesting reimbursement.

## RESOURCES

**Parent Information Center of DE (PIC)** – Fact sheets, webinars, workshops, information and news about education and disabilities [www.picofdel.org](http://www.picofdel.org) – Information specific to Educational Surrogate Parents <https://picofdel.org/educational-surrogate-parent-program/>

**Center for Parent Information and Resources (CPIR)** – Information, resources, handouts, videos and more about disabilities and disability related issues <http://www.parentcenterhub.org/>

**DE Department of Education (DOE)** – Information about Delaware schools and education <https://education.delaware.gov/>

**DE Regulations : Administrative Code : Title 14 : 900** – Information about the regulations that apply to the Delaware special education process <http://regulations.delaware.gov/AdminCode/title14/900/>

**U.S. Dept. of Education (USDOE) Individuals with Disabilities Education Act (IDEA)** – Information and videos about the federal law called IDEA (Individuals with Disabilities Education Act) <https://sites.ed.gov/idea/>

## CONTACT INFORMATION

**Parent Information Center of Delaware**  
(302) 999-7394  
1-888-547-4412 Toll-Free Statewide  
[www.picofdel.org](http://www.picofdel.org)

**Surrogate Parent Program**  
**Kathie Herel, Coordinator**  
(302) 999-7394, ext. 1110  
[kherel@picofdel.org](mailto:kherel@picofdel.org)