



COLORADO DEPARTMENT OF EDUCATION

EXCEPTIONAL STUDENT SERVICES UNIT

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To: Directors of Special Education
Special Education Directors of Approved Facility Schools

From: Laura Freppel, Assistant Director, ESSU
Jennifer Rodriguez, Senior Consultant, ESSU

Date: November 8, 2011

Re: Educational Surrogate Parent Assignments¹

Between 1998 and December 30, 2007, the Colorado Department of Education (CDE) maintained an Educational Surrogate Parent (ESP) appointment process, in accordance with IDEA, to protect the rights of students with disabilities whereby, the CDE appointed ESPs. Effective December 30, 2007, a change in procedural requirements were implemented in the ECEA Rules whereby the special education director of record became responsible for assigning ESPs. Please review 1 CCR 301-8, 2220-R-6.02(8) for Administrative Unit (AU) and State Operated Program (SOP) requirements and responsibilities regarding educational surrogate parents.

The Special Education Director of record for the responsible administrative unit or state-operated program must assign an educational surrogate parent (1 CCR 301-8, 2220-R-6.02(8)(e)(i) and 6.02(8)(k)) when: 1) no parent can be identified; 2) the parent cannot be located; 3) the child is a ward of the State; or 4) when the child is homeless child (see ECEA Rule 6.02(8)(a)).

Attached to this memo is the current 'Assignment of an Educational Surrogate Parent' form. AUs and SOPs are required to submit this form to CDE for all ESP assignments. This form includes all of the required data elements under the IDEA Regulations and the ECEA Rules. In your review of this form you will find ECEA Rule references that provide the legal authority for these requirements.

Please note important information regarding this form and AU/SOP responsibilities:

- Section 6.02(8)(a) – Please review this section for the situations in which an ESP must be appointed for a student with disabilities.
- Section 6.02(8)(b) – Educational Surrogate Parent Registry. This registry is maintained by CDE. This helps CDE and the AU/SOP maintain accuracy and integrity of ESP assignments, ensures that an assigned ESP remains with that child throughout the child's educational career and provides stability. We find that ESP assignments are not making their way into the child's special education file and AUs/SOPs do not know if their new student has an ESP already assigned. This helps track that missing information. Additionally, on the form, we are requiring the SASID for each student.

¹ The original version of this memo was sent on January 25, 2008.

This helps us to more accurately identify each student and eliminates the possibility of inaccuracy for students with the same name.

- Section 6.02(8)(c) – Duties of the AU of attendance or SOP. AUs and SOPs are responsible for an assignment process that includes a method of determining the need for an ESP and for assigning the ESP. The only exception is that, for students placed in Eligible Facilities, ESP assignment is the responsibility of the AU of residence. (See, Section 6.02(8)(k)).
- Section 6.02(8)(d) – an ESP may be appointed by the Court. We are seeing an increase in situations where the Court is making these assignments. The AU/SOP must submit this information to us so that we can maintain an accurate registry.
- Section 6.02(8)(e)(i) – The Special Education Director of the administrative unit of attendance or state-operated program shall assign educational surrogate parents. This assignment must be in writing and must be attached to the form for submission to CDE.
- Section 6.02(8)(e)(ii) – After determining that the child needs an ESP but before the ESP is assigned, the Special Education Director (or their authorized contact person) must contact the CDE to verify that there is not an existing educational surrogate assignment for the child. This information is maintained in the CDE registry of ESPs assigned to students.
- Section 6.02(8)(e)(iii) - The Special Education Director must ensure that a person selected and assigned as an educational surrogate parent: 1) Is not an employee of the CDE, the AU of residence, the AU of attendance (if different from the AU of residence), or SOP, or any other public 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 whom the ESP represents; and 3) Has knowledge and skills that ensure adequate representation of the child. This requirement is reflected on the form as a signature certification by the Special Education Director. AUs have been conducting their own ESP trainings for many years. This remains an AU/SOP responsibility. Each administrative unit should be maintaining its own list of trained ESPs.
- Section 6.02(8)(f) - Requirement for Written Certification. The Special Education Director is required to submit to the CDE documentation of each assignment of an educational surrogate parent within 3 business days of the date of the assignment. Please use the attached assignment form as your original and make copies as necessary for each assignment. The completed form and a copy of the letter of assignment and/or Court order must be faxed to the CDE. These documents should not be sent through Email due to confidentiality reasons.
- Section 6.02(8)(g) – Non employee requirement; compensation. An ESP is not an employee of the AU simply because he/she is paid to serve as an ESP. Some administrative units have been able to offer mileage reimbursement for their ESPs; however, we are unaware of any ESPs that are paid. This is a voluntary assignment.
- Section 6.02(8)(h) – Homeless children. This section outlines the ability of assigning a temporary ESP for students who are homeless.
- Section 6.02(8)(i) – ESP responsibilities. This section identifies all of the special education matters in which an ESP should be involved.

- Section 6.02(8)(j) - ESP assignments must occur within 30 days from the date of the determination that the student needs an ESP. The CDE is responsible for ensuring that this requirement is met. Therefore, AUs/SOPs will be required to provide the date when the determination of need was made and subsequently, the date of the assignment of the ESP (within the reporting requirements on the form).
- Section 6.02(8)(k) – Approved Facility Schools. Please review this section for the determination of responsibility for assignment of ESPs when students are publicly placed in an approved facility school.

Please don't hesitate to call Jennifer Rodriguez at 303-866-6889, if you have any questions.