



### **Guidance Memorandum**

Date: June 29, 2018

To: Superintendents  
Special Education Directors  
BOCES Executive Directors  
Facility School Directors

From: Paul Foster Ed.D.  
Executive Director of Exceptional Student Services

Re: Assignment of Educational Surrogate Parents

Under the Rules for the Administration of the Exceptional Children's Educational Act (ECEA Rules), each administrative unit (AU) and state-operated program (SOP) must ensure that the rights of a child are protected when no parent<sup>1</sup> can be identified, the AU of attendance or SOP cannot locate a parent, the child is a ward of the State, or the child is homeless as defined by Colorado law.<sup>2</sup> ECEA Rule 6.02(8) and 34 C.F.R. § 300.519. For such a student, the AU or attendance or SOP must assign "an individual to act as an educational surrogate parent for the child," and have "a method –

- For determining whether a child needs an educational surrogate parent; and
- For assigning an educational surrogate parent to the child."

ECEA Rule 6.02(8)(c). The criteria and procedural requirements for the assignment of an ESP are found at ECEA Rule 6.02(8), and include verification by the Special Education Director that the child has no existing ESP, and certification by the Special Education Director of each ESP assignment. ECEA Rule 6.08(e) and (f). AUs must notify the Department of ESP assignments through the use of an EDAC approved assignment form. This form is located on the CDE website at: <http://www.cde.state.co.us/cdesped/guidance>.

With respect to approved facility schools, if a child who has been placed in an approved facility school needs an ESP, then the child's AU of residence<sup>3</sup> or SOP – **not** the approved facility school – is responsible for locating and assigning the ESP. ECEA Rule 6.08(8)(k).

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<sup>1</sup> The term "parent" is defined in ECEA Rule 2.33.

<sup>2</sup> See C.R.S. § 22-1-102.5.

<sup>3</sup> If the approved facility school is not located within the boundaries of the AU of residence, the AU in which the approved facility school is located shall cooperate with the AU of residence in locating an ESP for the child. ECEA Rule 6.08(8)(k).



Importantly, the assignment of an ESP is an AU/SOP function that is subject to monitoring by the Department, including making “reasonable efforts to ensure the assignment of an educational surrogate parent not more than 30 days after the responsible administrative unit or state-operated program determines that the child needs an educational surrogate parent.” ECEA Rule 6.02(j).

In reviewing its registry, the Department notes that there are a number of AUs, including large AUs that statistically would be expected to make ESP assignments more frequently than others, which have not made any ESP assignments for a number of years. AUs are encouraged to review their ESP policies and to ensure that administrators and case workers are aware of the ESP requirements and how to comply with those requirements.

A technical assistance and training manual has been developed to assist AUs in meeting the responsibilities surrounding the assignment of educational surrogate parents for students with disabilities. Additionally, AUs may need to conduct an ESP training to increase the number of trained ESPs in your area. This manual is intended to assist with this effort and can be found on the CDE webpage at: <http://www.cde.state.co.us/cdesped/guidance>.

For questions about the ESP process, please contact Jennifer Woods at 303.866.6889.

