

Department of Education
Colorado State Board of Education

1 Colorado Code of Regulations 301-8

RULES FOR THE ADMINISTRATION OF THE
EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT

The official version of the ECEA Rules, 1 CCR 301-8, 2220-R-1.00, et seq., can be found on the Colorado Secretary of State's Website at: <http://www.sos.state.co.us/CCR/>

Educational Surrogate Parents

Section 6.02(8) of the Rules for the Administration of the Exceptional Children's Educational Act
1 CCR 301-8, 2220-R-6.02(8)

6.02 (8) 34 CFR §300.519—Educational Surrogate Parents

6.02 (8) (a) General.

The administrative unit of attendance and each state-operated program must ensure that the rights of a child are protected when—

6.02 (8) (a) (i) No parent (as defined in Section 2.33 of these Rules) can be identified;

6.02 (8) (a) (ii) The administrative unit of attendance or the state-operated program, after reasonable efforts, cannot locate a parent;

6.02 (8) (a) (iii) The child is a ward of the State; or

6.02 (8) (a) (iv) The child is a homeless child as defined in Section 22-1-102.5, C.R.S.

6.02 (8) (b) Educational Surrogate Parent Registry

The Department shall maintain a registry of each child with a disability determined to be in need of an educational surrogate parent and the educational surrogate parent assigned to the child. The purpose of the registry is to track those students for whom an educational surrogate parent has been assigned through the procedures established in this Section 6.02(8).

6.02 (8) (c) Duties of the administrative unit of attendance or state-operated program.

The duties of an administrative unit of attendance or a state-operated program under Section 6.02(8) include the assignment of an individual to act as an educational surrogate parent for the child. This must include a method-

6.02 (8) (c) (i) For determining whether a child needs an educational surrogate parent; and

6.02 (8) (c) (ii) For assigning an educational surrogate parent to the child.

6.02 (8) (d) Children placed in the legal custody of the Colorado Department of Human Services.

In the case of a child who is placed in the legal custody of the Colorado Department of Human Services, the educational surrogate parent alternatively may be appointed by the court overseeing the child's case, provided that the educational surrogate parent meets the requirements in Section 6.02(8)(e)(iii).

- 6.02 (8) (e) Criteria for selection of educational surrogate parents.
- 6.02 (8) (e) (i) The Special Education Director of the administrative unit of attendance or state-operated program shall assign educational surrogate parents.
- 6.02 (8) (e) (ii) After determining that a child needs an educational surrogate parent but before the educational surrogate parent is assigned, the Special Education Director must contact the Department to verify that there is no existing educational surrogate assignment for the child.
- 6.02 (8) (e) (iii) The Special Education Director must ensure that a person selected and assigned as an educational surrogate parent—
- 6.02 (8) (e) (iii) (A) Is not an employee of the Department, the administrative unit of residence, the administrative unit of attendance (if different from the administrative unit of residence), or state-operated program, or any other public agency that is involved in the education or care of the child;
- 6.02 (8) (e) (iii) (B) Has no personal or professional interest that conflicts with the interest of the child whom the educational surrogate parent represents; and
- 6.02 (8) (e) (iii) (C) Has knowledge and skills that ensure adequate representation of the child.

6.02 (8) (f) Requirement for written certification

The Special Education Director shall document in writing, on a form approved by the Department of Education, each assignment of an educational surrogate parent, including a written certification that the requirements of Section 6.02(8)(e)(iii) have been met. The Special Education Director shall provide a copy of the written assignment to the Department within three (3) business days of the date of the assignment.

6.02 (8) (g) Non employee requirement; compensation.

A person otherwise qualified to be an educational surrogate parent under Section 6.02(8)(e)(iii) is not an employee of the administrative unit of attendance or state-operated program solely because he or she is paid by such administrative unit or state-operated program to serve as an educational surrogate parent.

6.02 (8) (h) Homeless children.

In the case of a child who is an unaccompanied homeless child, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary educational surrogate parents without regard to Section 6.02(8)(e)(iii), above, until an educational surrogate parent can be appointed that meets all of the requirements of Section 6.02(8)(e)(iii).

6.02 (8) (i) Educational surrogate parent responsibilities.

The educational surrogate parent may represent the child in all matters relating to—

- 6.02 (8) (i) (i) The identification, evaluation, and educational placement of the child; and
- 6.02 (8) (i) (ii) The provision of FAPE to the child.

6.02 (8) (j) Responsibility of the Department.

The Department must make 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.

6.02 (8) (k) Eligible Facilities.

Notwithstanding Section 6.02(8)(c), above, if it is determined that a child placed in an eligible facility needs an educational surrogate parent, the child's administrative unit of residence or state-operated program is responsible for locating and assigning the educational surrogate parent. If the eligible facility is not located within the boundaries of the administrative unit of residence, the administrative unit in which the eligible facility is located shall cooperate with the administrative unit of residence in locating an educational surrogate parent for the child.