

# **SPECIAL EDUCATION DEPARTMENT**

## **Educational Surrogate Parent Program Frequently Asked Questions – For Facilities**

This document is intended to provide non-regulatory guidance on the subject matter listed above. For specific questions, please contact the Illinois State Board of Education.

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# EDUCATIONAL SURROGATE PARENT PROGRAM FREQUENTLY ASKED QUESTIONS

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## Introduction

Each student who qualifies or may qualify for special education services has a right to parental/guardianship representation in special education matters and processes. Parental consent must be given for many elements of special education evaluation and implementation of services. Some students in need of evaluation or services may not have a parent or guardian available. For those students, an Educational Surrogate Parent (ESP) may be assigned to act as an advocate and fulfill duties of a parent/guardian in the special education process on the student's behalf.

### 1. What is an Educational Surrogate Parent?

The Individuals with Disabilities Education Act specifies that children who do not have a parent, whose parent cannot be located, are wards of the state, or are unaccompanied homeless youth must have an Educational Surrogate Parent appointed to help protect their educational rights. An ESP participates on the child's behalf in special education processes, such as consent for evaluations and services, changes of placement, development of an Individualized Education Program (IEP), and other tasks.

The criteria for selection of an ESP are provided in 34 CFR 300.519(d)(2):

(d) Criteria for selection of surrogate parents.

(2) Public agencies must ensure that a person selected as a surrogate parent-

- i. Is not an employee of a State Education Agency, a Local Education Agency, or any other agency that is involved in the education or care of the child;
- ii. Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and
- iii. Has knowledge and skills that ensure adequate representation of the child.

It is important to note that ESPs do not act as a parent/guardian in matters unrelated to special education, such as for field trip permissions, notifications of absences, school contact for child illness at school, and attending open houses. (See Question 7 for more information on this topic.)

### 2. Who qualifies to receive an ESP?

A student who may need an ESP includes a child, age 3-22 who is eligible or is under evaluation for eligibility for special education services and –

- Is a youth in care,
- Is an unaccompanied homeless youth as defined in Section 725(6) of the [McKinney-Vento Homeless Assistance Act \(42 U.S.C. 11434a\(6\)\)](#),
- Is a child for whom no parent (as defined in [§ 300.30](#)) can be identified
- Is a child for whom the educational entity cannot locate a parent after reasonable attempts (see question 4).
- Has had a judge court order an Educational Surrogate be appointed.
- Special Circumstances – if there is a student who does not fit one of the criteria above, but may still qualify for an ESP, please contact [surrogate@isbe.net](mailto:surrogate@isbe.net)

### **3. Who does NOT qualify to receive an ESP?**

There are several groups of students that do not qualify for an ESP:

- Students who are not eligible and/or are not under evaluation for special education services.
- Students who have 504 Plans and are not under evaluation for special education services.
- Students for whom parents still have intact parental rights but are difficult to contact or refuse to participate in the educational planning process (See Question 4 for more information.)
- Students who are in the care of a foster parent or a guardian who is authorized to act as a parent.

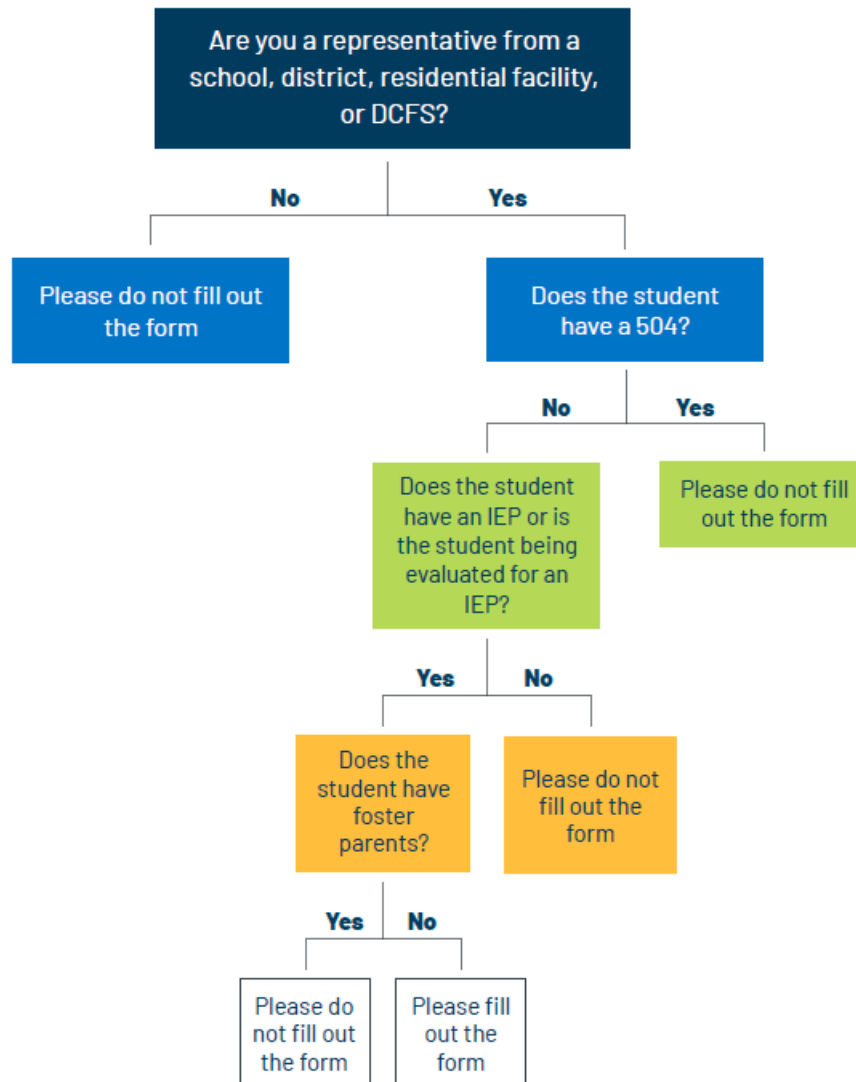
### **4. If a parent cannot be located, how does the entity prove it has made reasonable efforts to locate the parent(s)?**

Occasionally, an educational entity may not be able to contact or locate a parent or legal guardian although the parental rights are still intact. To receive an ESP for that student, the educational entity must be prepared to provide evidence that the entity has exhausted all reasonable efforts in accordance with [Public Act 104-0202](#), which states:

*The State Superintendent of Education may determine that the location of the parent or guardian of a student is unknown after considering information submitted from the school district that last enrolled the student or from the school or special education facility providing special education and related services to meet the needs of the student. The information submitted to the State Superintendent of Education must include an affidavit from that school district's superintendent or facility's director attesting that the location of the parent or guardian is unknown at least 3 satisfactory attempts were made on 3 separate days to locate the parent or guardian and no response was received from the parent or guardian within 14 days after such satisfactory attempts.*

In instances when this occurs, a statement from the facility or district on letterhead should be submitted to [surrogate@isbe.net](mailto:surrogate@isbe.net) with documentation of the three separate attempts. Requests of this type made by entities will be reviewed by the ISBE program coordinator and a determination will be made.

**5. Should I request an ESP?**



**6. How does the entity request an ESP?**

A representative of the educational entity, an Illinois Department of Children and Family Services (DCFS) caseworker, or other representative can request an ESP via an [ESP Request Form](#).

The requestor will need the following information:

- Student's full legal name
- Student's date of birth
- Student's current placement: educational and residential
- Student's special education status
- The reason for the ESP request (youth in care, etc.)

Please note:

- The student's Student Information System identification number (SIS ID) is not a required element but can help the agency locate the student in the system. The SIS ID is not the same as the DCFS student number or the Chicago Public Schools student number. If a student is not currently assigned a SIS ID because it is their first time enrolling in a public school district, the system will be unable to process the request. Please reach out to the school district to get a SIS ID assigned.
- Educational placement means where the student is receiving educational services. This may or may not be the same as the student's residential placement. Both placements are required for the request
- Requests for ESPs are typically fulfilled by ISBE within two business days. If there are questions about your request, an ISBE staff member will contact you for clarification.
- If your computer/internet browser is equipped with "autofill" for online text fields, please check your request form for accuracy prior to submitting as some fields may default to your autofill settings.

**7. Can DCFS or a facility caseworker sign consent for evaluations or services as the parent/guardian?**

No. For a qualified student, an ESP must be appointed to engage in special education actions and processes. A DCFS or facility caseworker might be the contact for non-special education actions, such as consent for field trips. Please see the chart below for more examples:

Special Education-Related Actions	Non-special Education-Related Actions
Consent for special education evaluation	Phone call that the child is sick at school
Development of or changes to an IEP	Reminder that the child has homework
Consent for special education services	Consent for a field trip
Receipt of IEP goal progress reports	Request for school picture money
IEP meetings: Domain, Evaluation, Annual Review, Manifestation Determination, etc.	Notification of emergency card information
Notification of disciplinary action	Invitation to open house
Change of placement	Notifications of a snow day or early dismissal
Changes to an IEP	Signing consent for Medicaid reimbursement form(s)
	Notification of absences

**8. What is the entity's responsibility in interacting with the ESP?**

The entity should engage with the ESP as it would with any parent or guardian of a student receiving special education services as stated in the Procedural Safeguards. For example, ensure the ESP is contacted in a timely manner in accordance with notification of conference(s), prior written notice(s), provision of a draft IEP prior to the IEP meeting, proposed amendments to an IEP, and provision of progress reports. ESP contact information should be shared with all members of the student's educational team so that communication can be maintained

regarding the progress of the student or the ESP can be notified of any educational issues with the student. The ESP should NOT be contacted to pick up the student due to behavior or illness and should not be listed as the guardian on any paperwork.

**9. For a student transferring to a new entity, should the new entity request an ESP before the student is officially transferred?**

If the student already has an ESP from a previous placement, wait until the student is transferred to the new entity to request a replacement ESP. A replacement may be necessary based on the distance between the two facilities, as ESPs typically have a limit on the distance they can travel, and the current ESP may not be able to travel to the new facility.

If the student does not have an ESP -- but qualifies for one -- a request may be made.

**10. When are ESPs withdrawn?**

ESPs are withdrawn for several reasons. Per Illinois school code 105 ILCS 5/14-8.02d, it is the responsibility of the district or facility to notify ISBE when an ESP should be withdrawn. Entities may request withdrawals using the [public request form](#). Reasons for withdrawal may include:

- The student has left the facility and/or district (transferred/discharged).
- The student has graduated from high school.
- The student has returned to biological parents or a legal guardian.
- The student is now in foster care.
- The student is no longer eligible for special education services.
- The student has reached age of majority. (See Question 12.)
- After the evaluation, the special education team determines that the student does not qualify for special ed services (including if the student moves from an IEP to a 504)
- The student is deceased.
- The student has reached age 22 years.

Please be sure to select the most appropriate reason for the withdrawal in the request form to help the ISBE team know if the student might still need an ESP.

**11. What should an entity do about students who graduated or turned 22 years old?**

The ESP needs to be withdrawn when a student has graduated from high school or turned 22 years old. If a student's 22<sup>nd</sup> birthday occurs during the school year, the ESP will not need to be withdrawn until the end of that school year or such time as eligibility ends.

Please submit a withdrawal request using the [electronic request form](#).

**12. Does a student who has turned 18 still need an ESP?**

It is stated in 105ILCS5/14-6.10 that at the age of 18, the age of majority, all rights under Article 14 of the School Code transfer from the parent/guardian to the student. However, if the student has been adjudged incapable of making educational decisions independently or wishes to independently delegate their educational rights to another individual, an ESP may still need to be assigned to support the student. All notices required under Part 226 and 34 CFR 300 be provided to the student and the parent after the student reaches the age of majority per 23 IAC

226.690(c). Districts must follow all requirements specified in 105 ILCS 5/14-6.10 and 23 IAC 226.690 regarding transfer of parental rights.

Please see the following documents for more information:

[Delegation of Rights to Make Educational Decisions](#)

[Parent/Guardian and Student Notification of Transfer of Rights Due to Age of Majority](#)

**13. What does the entity do if a student is considered “AWOL”?**

If a student is “AWOL” or has run away from the facility, please do not submit a withdrawal request. Please contact [surrogate@isbe.net](mailto:surrogate@isbe.net) to proceed.

**14. If the entity cannot get in contact with the student’s assigned ESP, should the entity ask for a replacement?**

Please contact [surrogate@isbe.net](mailto:surrogate@isbe.net) and let us know. We will work with you to determine if the contact information is correct or if the ESP needs to be replaced.

**15. What should the entity do if there is a conflict between the IEP team/school and the ESP?**

The goal is for the IEP team and ESP to work together for the benefit of the student, but conflict may arise. ESPs reserve the right to engage in conflict resolution procedures as stated in the Procedural Safeguards. ESPs should act collaboratively with professionalism while working with the team. If there is a concern regarding any ESP conduct, please contact [surrogate@isbe.net](mailto:surrogate@isbe.net).

**16. As an entity/facility representative, how do I know which of my students have ESPs?**

If you need an updated list of students with active ESP assignments, please contact [surrogate@isbe.net](mailto:surrogate@isbe.net). It is recommended that your facility keep precise records of which students require an ESP so appointments, replacements, and withdrawals can be made accurately and in a timely manner. It is also recommended to coordinate with student’s home districts for record keeping purposes. It is helpful to have a plan of how to share this information in case of staff turnover since emails from the ESP system will go to the person who was there at the time of the request.

**17. What should facility administrators do if they requested an ESP for a student but did not receive a notification letter of appointment or withdrawal?**

The online system for ESP requests generates notification letters for the student’s documented home district, special education cooperative, placement facilities, and the individual who submitted the request. If your email address is not associated with any of the generated contacts, you will not receive the notification. It is recommended that you coordinate with the individuals who complete requests to ensure you and other important stakeholders are appropriately notified. It is particularly important that the entity that is responsible for an IEP is aware of the appointment of the ESP. If there is an email address on file for the pertinent contacts, notification will be sent via email as an encrypted document. Once sent, the recipient will follow the instructions to download the encrypted PDF notification. If you need a copy of the appointment letter, please contact [surrogate@isbe.net](mailto:surrogate@isbe.net).



**18. Who can I contact for more information?**

If you'd like to know more, please contact [surrogate@isbe.net](mailto:surrogate@isbe.net), call 217-782-5589, or visit the [ISBE Educational Surrogate Parent Program webpage](#).