



Indiana Department of Education

Glenda Ritz, NBCT
Indiana Superintendent of Public Instruction

Who Can Give Consent for Educational Decisions:

The foster parent is considered the parent for purposes of educational decision-making under Article 7 and IDEA.

- If there is no foster parent or the foster parent is unable or unwilling to participate with the public agency in the collaborative decision-making process under Article 7 and the IDEA, the public agency may appoint an educational surrogate parent.

The public agency shall appoint an educational surrogate as follows:

- When no parent can be identified.
- When the public agency can't locate a parent.
- When the student is a ward of the state, unless the court order creating the wardship permits the student to remain in the home or expressly reserves to a parent the authority to make decisions concerning the student's education or upbringing.
- When the student is homeless and not in the custody of the parent.

Educational surrogate parent:

- Must not be employed by the department of education, a public agency, or any other agency involved in the education or care of the student.
- Must have no personal or professional interest that conflicts with that of the student.
- Should match the student's cultural and linguistic background to the extent possible.
- Must have knowledge and skills that ensure adequate representation of the student.

511 IAC 7-32-70 "Parent" defined

Sec. 70. (a)"Parent" means one (1) of the following:

- (1) Any biological or adoptive parent whose parental rights have not been terminated or restricted in accordance with law.
 - (2) A guardian generally authorized to act as the student's parent, or authorized to make educational decisions for the student, including a court-appointed temporary guardian.
 - (3) A foster parent.
 - (4) An individual with legal custody or an individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, or other adult who accepts full legal responsibility for the student and with whom the student lives.
 - (5) An educational surrogate parent appointed in accordance with 511 IAC 7-39.
 - (6) Any student of legal age, which is defined in section 91 of this rule to mean a student who:
 - (A) is eighteen (18) years of age; and
 - (B) has not had a guardian appointed by a court under IC 29-3.
 - (7) An educational representative appointed under 511 IAC 7-43-6
- (b) Except as provided in subsection (c), the biological or adoptive parent, when:
- (1) attempting to act as the parent under this article; and
 - (2) more than one (1) party is qualified under subsection (a) to act as a parent;
- must be presumed to be the parent for purposes of this article unless the biological or adoptive parent does not have legal authority to make educational decisions for the student.
- (c) If a judicial decree or order identifies a specific person or persons under subsection (a)(1) through (a)(5) to:
- (1) act as the parent of a student; or
 - (2) make educational decisions on behalf of a student;
- then such person or persons shall be determined to be the parent for purposes of this article.