



SPECIAL EDUCATION SURROGATE PARENT PROGRAM

Handbook

They need more than a classroom.
They need a *voice*.

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In accordance with the direction of the Mass Department of Elementary and Secondary Education, the Special Education Surrogate Parent Program responds to the mandates of federal special education laws which require that procedures be in place to protect the special educational rights of ALL children who may require special education services, including those who are in the care or custody of the Commonwealth of Massachusetts or whose parents are unknown or unavailable, and ensure that the rights of these children to benefit from a free and appropriate public education are protected.

Vision Statement

The vision of the Special Education Surrogate Parent Program is to provide an educational pathway to success for children and youth in state custody.

Mission Statement

The mission of the Special Education Surrogate Parent Program is to promote positive educational outcomes for children and youth in state custody by appointing volunteers to represent their best interests in the special education process.

The Special Education Surrogate Parent Program (SESPP) is a joint project of the EDCO Collaborative¹ and the Federation for Children with Special Needs². Each agency is responsible for implementing certain aspects of the SESPP. The Federation for Children with Special Needs is responsible for volunteer recruitment, training, and support of the SESP through the Recruitment, Training, and Support Center (RTSC) for Special Education Surrogate Parents. The EDCO Collaborative is responsible for student eligibility determination, SESP appointment, and case management. Together, these agencies ensure that eligible students are matched with knowledgeable adults who are willing to act in the role of “surrogate parents” for the purpose of special educational decision-making.

¹ EDCO Collaborative: 281 Winter Street, Waltham, MA 02451. 617-738-5600. www.edcollab.org.

² Federation for Children with Special Needs: 529 Main Street, Suite 1102, Boston, MA 02129. 617-236-7210. www.fcsn.org.

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Welcome

“I don’t think people realize how many children in school systems need services and don’t have anyone advocating for them. It’s a great program. It’s very gratifying working on behalf of children who desperately need someone in their corner.”

- Lynne C., Volunteer

Dear Volunteer:

Welcome to the handbook of the Special Education Surrogate Parent Program! If you are reading this, chances are you are already working with our program in some capacity, be it as a new volunteer or a seasoned program veteran. We offer this handbook to guide you in your understanding of the role of the Special Education Surrogate Parent and the circumstances of the students we serve, along with providing useful information about our program.

The Special Education Surrogate Parent Program (SESPP) is a statewide organization that appoints volunteers who accept the responsibility to be special education decision-makers for students who are in state custody and are receiving special education services. Our volunteers have been serving students across Massachusetts for over 20 years, and are actively appointed to over 1,000 eligible students. The students we represent reside in a variety of living situations including residential schools, group homes, hospitals or pediatric nursing homes, state institutions, diagnostic placements, shelters, and foster homes. They may be in a full inclusion setting at a local public school, or be attending a highly structured day school program. In short, our students can land at multiple points along many different continuums.

Children and adolescents in the custody of the state have often experienced numerous traumatic losses and stressful upheavals, and typically have very few family supports available to help them. They wage an uphill battle for success every day of their lives. Appropriate academic services equal a better chance of success in school, and subsequently a better chance of a positive future.

So welcome aboard! We thank you for the time, knowledge, skill and devotion that you bring to the children in our program. We are always in need of volunteers, so we encourage you to share your experiences as an SESP with your friends, neighbors and colleagues. Invite those who have a desire to provide a voice of advocacy for a child to learn more about this valuable opportunity.

Sincerely,
SESPP Staff

The Purpose of the Special Education Surrogate Parent Program

All of the laws and regulations related to special education stress the importance, and the requirement, of parental involvement in the special education process. These laws also recognize that not all children have a parent available to support them. If children who require special education services are in the care or custody of the Commonwealth of Massachusetts or their parents are unknown or unavailable, they may be eligible for the appointment of a Special Education Surrogate Parent (SESP). Students who are unaccompanied and homeless may also be eligible. The Program ensures that all these children have access to a Free and Appropriate Public Education (FAPE).

The SESPP identifies eligible students upon referral to the program, and matches each eligible student with a volunteer trained and approved by the RTSC for Special Education Surrogate Parents. Without the appointment of an SESP, these students would not have access to special education services available through public school districts.

All states in the U.S. must provide educational surrogates when parents are not available, though they may implement a program in any way most suited to meet their needs. The Massachusetts Department of Elementary and Secondary Education (ESE)³, contracts the responsibility of managing the program to two private non-profit agencies, the EDCO Collaborative and the Federation for Children with Special Needs. These agencies are required to uphold the mandates of the federal and state requirements of the SESPP.

The Laws and Regulations⁴

Federal Special Education Law (IDEA 2004):

Individuals with Disabilities Education Act 2004: 20 U.S.C. 1400

Reference to Special Education Surrogate Parent: 20 U.S.C. 1400 §615(b)(2)(A)(B)

Federal Special Education Regulation: 34 CFR §300

Reference to Special Education Surrogate Parent: 34 CFR §300.519

Massachusetts Special Education Law: M.G.L. c. 71B

Massachusetts Special Education Regulation (Section 28): 603 CMR §28.00

Reference to Special Education Surrogate Parent: 603 CMR §28.07(7)

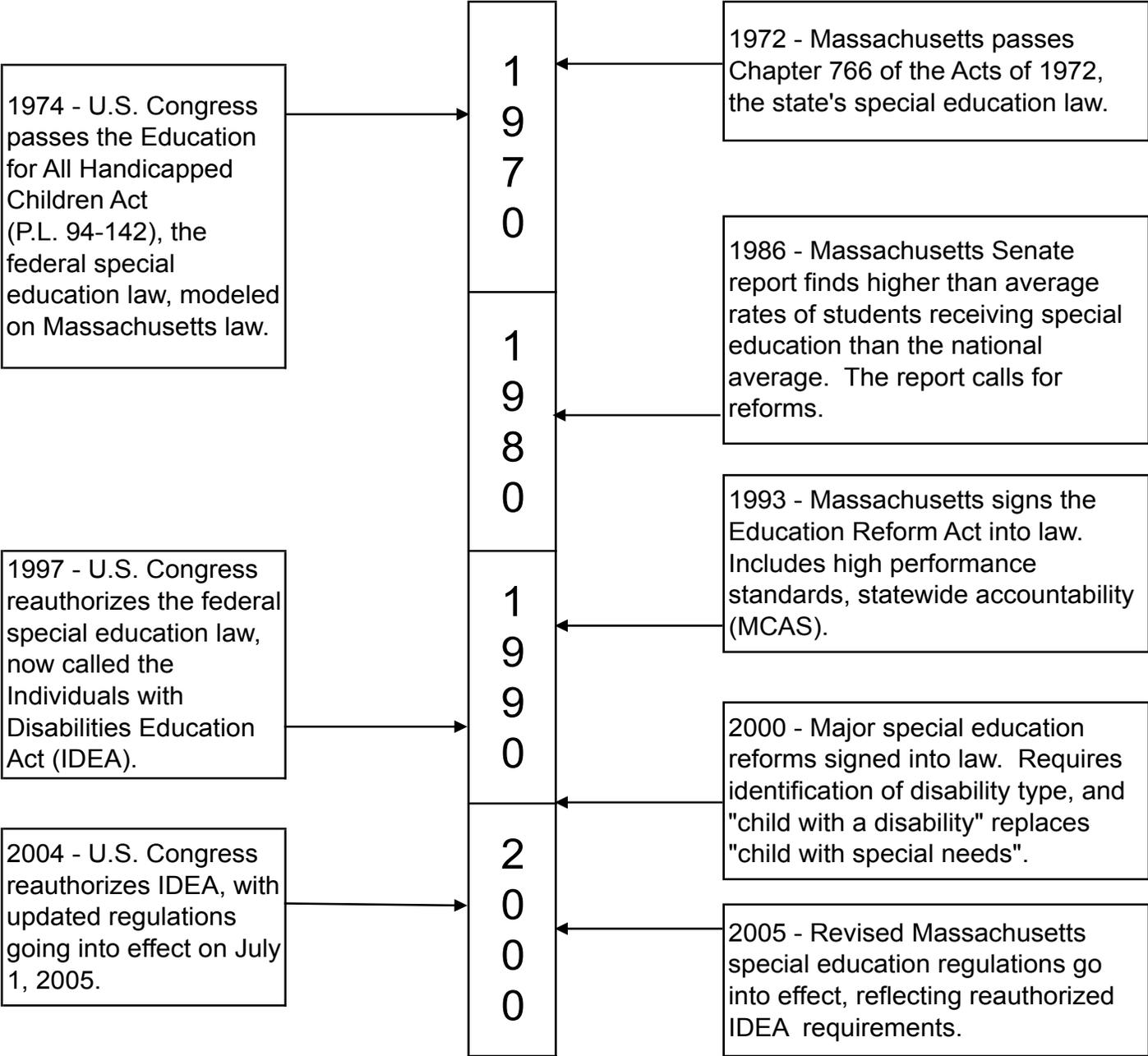
³ ESE: 75 Pleasant Street, Malden, MA 02148. 781-338-3000. www.doe.mass.edu.

⁴ Please see Appendix A for the full text of the laws and regulations.

History of Special Education Law

Federal Law

Massachusetts Law



Adapted from: Massachusetts Department of Elementary and Secondary Education: "Is Special Education the Right Service? A Technical Assistance Guide". Working Draft – March 2001.

Volunteer Eligibility

SESPP volunteers represent a wide range of caring and committed individuals who are dedicated to making a difference in a child's life. Our volunteers include parents and relatives of special needs children; school professionals; educational administrators; retirees; and members of community service agencies, civic organizations, professional associations and advocacy groups.⁵

Volunteer training and approval is done through the Recruitment, Training, and Support Center (RTSC) for Special Education Surrogate Parents, a project of the Federation for Children with Special Needs.

Requirements to become a Special Education Surrogate Parent:

- Be at least 18 years of age.
- Submit a completed application providing two references.
- Complete a Criminal Offender Record Information (CORI) request form. We will need to meet with you to obtain a copy of a valid government issued photo identification (e.g., driver's license, passport, or state issued identification). It is required that your CORI be updated every three years.
- Not be employed by an agency that is involved in the care and/or education of the student. For example, you will not be appointed to a particular student if you or your spouse is employed by the school district that is responsible for the education of that student.
- Completion of the SESPP Orientation Training.

All volunteers are required to attend the Orientation Training unless their application is reviewed by the RTSC and the training is waived. Such waivers are given to those volunteers who demonstrate knowledge and experience in the field of special education. If you feel that this may apply to you, please be sure to document your qualifications on your application form. Please note that you are still encouraged to attend the training in order to better understand your new role as an SESP.

Q: Why can't staff members of the custodial agency (i.e., Department of Children and Families), the school district, or the facility caring for the student be responsible for representing him or her on special educational matters?

A: Neither the custodial agency nor the other providers, such as the school district, can act as a totally neutral party to advocate without conflict of interest.

Q: My own children attend the public schools in the town that I live in. Although it's not legally a conflict of interest, I'd prefer not to be matched with a student involved with the same district. Is this okay?

A: Absolutely. We actually have many volunteers who fall into this category, and it's all part of the individual preferences that you can list on your application. Just let us know!

⁵ Please see Appendix B for the job description of the SESP.

Rights and Responsibilities of a Special Education Surrogate Parent

A Special Education Surrogate Parent is a very unique volunteer position, and comes with specific rights, responsibilities, and limitations associated with the role.

A. Your Rights

As a Special Education Surrogate Parent, you have the same rights and authority of a “parent” as outlined in Massachusetts regulations (603 CMR Chapter 28) and the Federal regulations (IDEA 2004). These include, but are not limited to:

- Access all regular and special education records of the student, including all progress reports and report cards.
- Provide written permission for special education evaluations.
- Review all education evaluations.
- Attend all special education Team meetings.
- Request a Team meeting when there are concerns or changes regarding your student’s academic, social or emotional status.
- Observe your student in his or her school setting to assist in determining the appropriate educational supports and placement(s).
- View educational placements that are being considered.
- Review and accept or reject the proposed Individualized Education Program (IEP), in whole or in part, within the 30-day time frame.
- File a complaint if you feel that the education laws or regulations, or a student’s rights are violated.
- Pursue the appeals process, if necessary.

Q: I attended a Team meeting for my student and his mother was there. What is my role in this situation?

A: Your role as SESP does not change if the student’s parent is present at the Team meeting. It should be made clear to the parent that you have been assigned to make special education decisions for his/her child. When a parent is present at the Team meeting, it usually means that the student may be reunified with the parent. Listen to the parent’s concerns as you would any other member of the Team when making special education decisions for your student.

Q. Can Team meetings be scheduled to accommodate my work schedule?

A. Federal regulations [300.322(a) (1) and (2)] require the school district to notify you of meeting dates early enough to ensure you can adjust your schedule, and to schedule meetings at a mutually agreed on time and place.

B. Your Responsibilities to the Student

Your responsibility as an SESP volunteer is to represent the best interest of the student(s) you are appointed to when decisions are being made regarding their special education. The responsibilities specific to this role are to:

- Act as a “parent” by fulfilling all rights associated with the role of the SESP.
- Advocate in the best interest of the student.
- Attend other educational related meetings when you feel it is necessary.
- Maintain regular communication with the student’s providers.
- Monitor the student’s progress and special educational services provided.
- Maintain student records in your possession in an organized fashion.
- Respect the confidentiality of all records and information related to the student.

Q: I’ve had some trouble getting my student’s social worker to return my phone calls. What should I do?

A: If you have difficulty reaching any provider, be it the social worker, a school official, clinician, or other, there are several things you can do to address the situation. Try email...many people use it and are able to respond more quickly (just remember to respect confidentiality issues – see page 21). You can also put your request for information in writing via a letter - this more formal request often produces results. Or, call the worker’s supervisor. Many workers have high case loads and infrequent office days, and a supervisor often has the same information and can get back to you more quickly. If all else fails, call the SESPP, and we can help facilitate communication.

Q: I recently called my student’s group home, only to be told that he was moved to another placement weeks ago by DCF. Why didn’t the SESPP inform me?

A: Children in DCF custody can be moved frequently for various reasons, and as the student’s special education decision-maker you should be made directly aware of any changes in the student’s living situation by DCF. It is imperative to keep in contact with the DCF social worker and other providers on a regular basis so they can keep you abreast of any new circumstances.

Q: Can I invite a friend or advocate to attend a Team meeting with me for support and assistance?

A: No. As the designated special education decision-maker, you are obligated to respect the confidentiality of the student you are appointed to. This includes keeping identifying details about your student private. Most of our students come with very traumatic pasts, and there may be sensitive and graphic personal information revealed by certain evaluations and reports in these meetings. If you feel you may need assistance at an upcoming meeting, please contact the RTSC at the Federation.

C. Your Responsibilities to the SESPP

- Return all required paperwork to the SESPP, and keep the program updated about changes in the student's placement or status.
- Inform the SESPP in a timely manner of any changes in your ability to fulfill your volunteer rights and responsibilities.
- Update your CORI with the SESPP every three years.

D. Limitations

The decision-making authority of this position is focused solely on special education, and involves discussing, addressing, and/or developing supports that assist the student in making effective academic progress. All medical, therapeutic, residential or financial decisions unrelated to special education fall under the authority of DCF and the student's social worker. While you are welcome to express your concerns, and/or ask the student's DCF social worker to address them, you have no authority to make changes in these areas. A more detailed explanation of where the limits fall is outlined below.

Medical Decisions - Decisions regarding the medical treatment of the student are made by DCF and the student's social worker. You may not make decisions regarding medication or arrange for the student to see a physician. However, any time a medical concern interferes with a student's access to education you may request support or intervention to address the situation. For example, if the teacher reports that the student consistently misinterprets oral directions, you can request that a hearing evaluation be conducted.

Many times the student(s) you are appointed to may be eligible for Medicaid. As a result, school or other personnel may request that you authorize the release of records to Medicaid or other providers based on the assumption that you are the student's "parent" for all school-related issues. This assumption is incorrect. You do not have authority to release educational records for health insurance or school activities unrelated to special education. All such requests should be directed to the student's social worker.

Therapeutic Decisions - This limit speaks to any decisions regarding the student's receipt of, or participation in, therapy outside of school. You are well within your rights to request Occupational Therapy, Physical Therapy, Speech Therapy or any behavioral or supportive therapy that would normally be decided by a Team or offered by a school district to assist students in making effective progress. If the student is placed in a therapeutic day school, or if their placement is considered "residential" for academic reasons (meaning the Team decided that residential supports were needed for the student to make effective progress) then the therapies used within those settings may be addressed, as they would be under the Team's discretion. You are not able to make arrangements for a student to access a private counselor or any type of therapy outside of school administered services.

Residential Decisions – While school programs are determined by the Team, the placement where the student lives is determined by DCF. This living placement often subsequently affects the choices available for specific school placement. This can be a complex issue and we welcome your questions in regard to your specific student as they arise.

Financial Decisions - As SESP, you have no financial responsibility to any of the students you are appointed to. Additionally, financial constraints cannot be used as a reason for not providing appropriate and necessary services if the IEP Team determines a service is necessary to meet the needs of a child. As SESP, you are not responsible to negotiate any funding of services or placement with either the school district or DCF. Your responsibility is to work with the Team to determine the special education and related services the student requires to have success in school.

Q: So, in summary, what am I not responsible for signing?

A: DCF or their agent is responsible for signing the following documents:

School enrollment forms

School related consent forms (i.e., field trips, pictures)

Consent for referral packets to be sent to collaborative or day schools

Medicaid or MassHealth authorizations

Chapter 688 referrals

Forms related to regular education

504 Plans

If you're not sure you should sign, give us call!

E. Transportation

As SESP, you are *not* responsible for transporting your student for any reason, academic or otherwise, and doing so may constitute a serious liability. This includes, but is not limited to, regular daily transportation to and from school; alternative transportation (sick child, after-school activities, suspensions, etc); transportation to appointments and evaluation facilities; or interviews at potential school placements.

Q: Do SESP's receive a financial stipend?

A: No. However, you may be able to deduct certain expenses such as mileage (i.e., transporting yourself to Team meetings, student observation, school visits to review records) on your income tax return. Please consult a tax advisor for clarification.

Student Referral Process

Students are referred to the Special Education Surrogate Parent Program from a variety of sources, as anyone can make a student referral. Our most frequent referral sources are:

- Department of Children and Families (DCF)
- School Districts
- Department of Youth Services (DYS)

For initial program referrals, an official referral form must be completed for each individual student. Official forms are located on our website at www.sespprogram.org, or can be obtained by contacting the SESPP directly at 508-792-7679.

Upon receipt by the program, a student referral is distributed to a case coordinator. The case coordinator will determine whether a student is eligible for an SESP by contacting the student's DCF social worker, and then contacting additional providers to gather further information as necessary.

Student Eligibility Requirements

In order for a student to be eligible for a Special Education Surrogate Parent, a student must be:

- Between the ages of 3 and 18 (special considerations are given to students between the ages of 18 and 22),
and
- Receiving special education services, or referred for an evaluation to determine eligibility for special education services,
and
- One of the following conditions applies: (a) the student's parents are considered to be unknown because no identification can be made from the student's records, *or* (b) the student's parents are unavailable because they cannot be contacted after a reasonable effort has been made on the part of the agency responsible for the student, *or* (c) the student is in the custody of a state agency and the parents do not retain special education decision-making rights, *or* (d) the student is classified as an "Unaccompanied Homeless Youth"⁶.

⁶ *Unaccompanied Homeless Youth: A youth who is not in the physical custody of a parent or guardian, and who lacks a fixed, regular, and adequate nighttime residence or has a primary nighttime residence in a supervised, publicly or privately, operated shelter for temporary accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill), an institution providing temporary residence for individuals intended to be institutionalized, or a public or private place not designated for, or ordinarily used as, a regular sleeping accommodation for human beings.*

Students eligible for a Special Education Surrogate Parent may reside in a variety of living situations including residential schools, group homes, hospitals or pediatric nursing homes, state institutions, diagnostic placements, shelters and foster homes.

Under both federal and state special education regulations, foster parents have the authority to act as special education decision-makers without an appointment by the SESPP. Foster parents may decline the right to make special education decisions. In these instances an SESP would be appointed and may work with the foster parent. However, the foster parent would forfeit their right to make special education decisions.

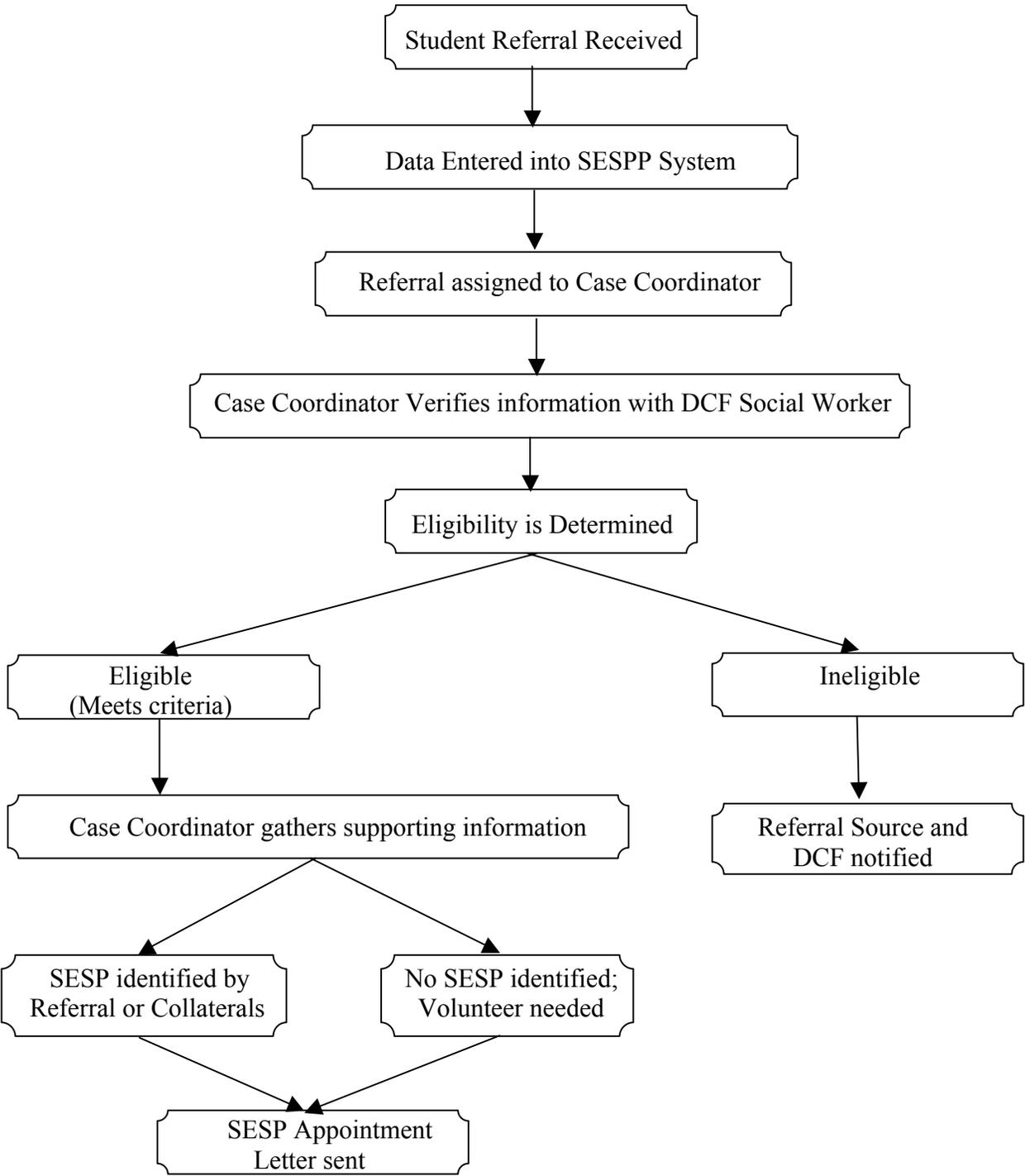
Q: When would it be a conflict for a foster parent to be the SESP?

A: Situations that would indicate a conflict of interest include, but are not limited to:

- *If the foster parent is an employee of an agency, in addition to being a foster parent with that agency (i.e., Jane is a case worker for Valley Services, and is also a foster parent for the agency).*
- *If a student is being considered for a collaborative or day school program operated by the same agency that is providing the foster home (i.e., the student has been referred to Valley Services' Day School, and is living in Jane's Valley Services' foster home.)*

In both circumstances, and if all other SESPP student eligibility criteria were met, a volunteer SESP would be appointed.

SESPP Student Referral Process



Appointment Process

After the case coordinator determines that a student meets all required eligibility criteria, attention is turned to identifying an appropriate SESP. The case coordinator will first investigate whether there is already an involved adult who may be interested in making special education decisions for the child. Such individuals may include:

- Biological Parents/Guardians who may retain special education decision-making authority. No appointment by the SESPP is necessary.
- A Visiting Resource, who has already fulfilled DCF requirements to be considered an active part of the student's life, may be appointed as SESP after completing the written application and CORI.
- Other involved adults, who are not already approved as Visiting Resources through DCF, are required to fulfill all SESPP volunteer requirements before being appointed. Such individuals may include, but are not limited to, prior service providers with no current conflict of interest, previous foster parents, relatives, or other community members.

If no such adult can be identified, the case coordinator will review all available volunteer SESPPs listed in the program database. We will try to match you with a student based on criteria such as geographic location and your stated interest in certain areas of disability, student age group, and other individual preferences. The case coordinator will contact you, give details about the particular student's situation, and you can choose whether or not to accept the match.

After you have accepted the student, an official Letter of Appointment is completed. This letter formally names you as the authorized special education decision-maker for the student, with all the rights and responsibilities of a parent in matters relating to the special education process. The Letter of Appointment is accompanied by:

- A list of current service providers for the student, along with their contact information. (A copy of the Letter of Appointment is also sent to each of these providers, and serves as official notice of the rights you have regarding that particular student).
- A copy of your Rights and Responsibilities.
- An outline of suggested initial actions for you to perform.
- An Assurance Statement, where you acknowledge your appointment and the rights and responsibilities associated with it. You are required to sign and return this form to the SESPP.
- A Change Reporting Form, for you to document and inform the SESPP of any changes to the student's situation you feel may be relevant through the duration of your appointment.
- Information regarding Medicaid eligible students, and how this information affects the your role as SESP.

We will share all the information we have on the student with you, but we do not gather the student's records. Rather, you obtain this information from the student's providers, specifically the school district.

Q: I'm a brand-new volunteer, and I'm a little nervous...can I request to be matched with an easier case for my first appointment?

A: Sure! The students referred to our program come with a wide range of circumstances. With the information the case coordinators gather while determining student eligibility, we can often determine which cases might be appropriate for a volunteer in your position. With your training, as well as the supports that the SESPP and RTSC offers to volunteers, we're confident you'll do great!

Q: I have some knowledge and experience in the field of autism. Can I be matched with a student on the spectrum?

A: You can certainly request that, and we will do our best to accommodate you! We welcome volunteers with specific areas of expertise. Just know that if you do only want to be contacted regarding students within a specific category, it may take a bit longer than usual to match you with a student.

So I just accepted a student match and received my Letter of Appointment in the mail...now what?

Now the fun begins! Every student is different, every IEP is different, and every service provider is different. For those reasons, it can be difficult to give a one-size-fits-all answer to how best to proceed. Included in the appointment packet you have received from the SESPP is a "What to do First" list - a guide of suggested steps for you to perform after receiving your appointment letter. Use this list to help you get started. Call and introduce yourself to the other providers involved with your student. You will have received some information from the case coordinator at the SESPP regarding the student's situation...use this knowledge to formulate some questions of your own to ask the other service providers. They can give you valuable additional information relating to your student's circumstances. Request a copy of the student's records from the school district...the district is obligated to provide you with access to the student record within 10 days of your request. DCF and other service providers may also choose (but are not obligated) to share records with you. You can also ask the DCF social worker about the possibility of meeting with the student.

The student's case coordinator at the SESPP can help you figure out anything that is related to your role, your interactions with DCF and changes in the student's status.

The RTSC for Special Education Surrogate Parents can help you figure out the special education process, your interactions with the school districts, and can support and assist you as you advocate for your student.

Meeting Your Student

Within your role as SESP

Developing a relationship with your student may be something that is very important to you, and is something that we are frequently asked about. While such an interest is understandable, it is not a program expectation. We recognize that it is a challenge to make decisions for a child you may not know very well. Much of the information you receive about your student will come second-hand from other service providers, from academic records and evaluations, and through your own observations of the student in a classroom setting. If you do wish to meet with your student, first speak with the student's DCF social worker, as it is not always in the student's best interest. Please consider that many of the students we serve have been through multiple transitions in their lives, as well as numerous traumatic experiences, and the student may not be in the best position to meet with you. We also strongly recommend that you have a third party present any time that you are meeting with your student.

Q: I recently met with my student and she asked me to help her convince her social worker that she should be able to return home to her parents. How do I respond to this?

A: It is important to explain your distinct role to the student when you meet or converse for the first time. While she might feel that returning home is the most important outcome in her life at that moment, your role is to ensure she is receiving the best possible education regardless of where she lives. Explain clearly that you have no authority over whether or not she is able to return home, and encourage her to address her concerns with her social worker and other providers who do have the power to make that decision. Keep in mind that a student's personal goals and desires, whether realistic or not, can have a substantial positive or negative effect on academic success, and so it is often useful to learn about these things even if they are out of your control.

Q: What are some of the reasons that would prevent me from meeting my student before I have to make special education decisions for them?

A: Although we recommend that you meet the student before making any special education decisions, there are circumstances that may prevent this. Some examples include: an immediate decision is needed to implement services or placement; the student is in a medical or psychiatric hospital and is not in a stable condition; the DCF social worker feels it is not in the student's interest to introduce another adult into their life at this time; the student is moved out of your area; or the student refuses to meet with you. In any instance, we recommend that you arrange to meet the student as soon as the situation allows.

Outside your role as SESP

As Special Education Surrogate Parent, your only obligation to the student is in the area of special education. Any involvement with a student beyond this is a decision that you would make on your own, and is subject to the approval and authorization of the student's social worker. Should authorization be granted for such involvement, such as taking your student out for ice cream or attending a school play, it is important for you to have the specific parameters of the activity defined by the student's DCF social worker in writing.

We recognize that the rights, responsibilities, and scope of authority associated with being an SESP are all very unique, and we welcome you to call the Special Education Surrogate Parent Program for further clarification if needed.

Number of Students per Volunteer

There is no SESPP requirement that stipulates the minimum or maximum number of students you can be matched with, either concurrently or consecutively. You may choose to be assigned to one student at a time, or to as many students as you and the Program feel you can effectively represent.

Q: How many hours per month am I expected to commit to working on behalf of my student?

A: It varies for each appointment. Some students may have current IEPs and a stable academic environment, and acting as SESP might primarily entail checking in periodically with service providers. Other students may be in the middle of a complex Team process involving a number of contentious issues. Most of our SESPs report that it takes an average of 10-20 hours per year for them to be confident that they are advocating effectively on behalf of their student.

Length of Commitment

The SESPP asks that you plan to commit to each student you are appointed to for a period of at least one year. The students we serve experience many transitions in their lives, and SESP continuity is essential. Many of our volunteers stay with the same student from elementary school through high school graduation! However, the Program recognizes the different circumstances where an extended appointment may not be feasible.

Reasons that your appointment may end:

- 1) The student is no longer eligible for an SESP.
 - The student turns 18 and is considered competent to make their own decisions.
 - Custody is returned to parent(s) or guardian(s).
 - The student is adopted.
 - The court appoints a legal guardian.
 - An SESP is appointed through the court.
 - The student is unavailable to be educated.
 - The student transitions to a foster home, and the foster parent chooses to make the educational decisions. *(Please see the following section: “When Students with an SESP move into a Foster Placement” for more information).*
 - The student is no longer receiving special education services.
 - The Team decides that the student is no longer eligible for special education services.
 - The student graduates from high school.
 - The student turns 22 years old.

- 2) It becomes a conflict of interest for you to continue to represent the student. For example, if you take a job with a specific school district, you can no longer be appointed to any student involved with that school district.

3) You request that your appointment be ended for personal reasons, such as an illness or a move.

4) Your appointment is ended by the SESPP due to non-compliance with the rights and responsibilities associated with the role. *(Please refer to the section of the handbook regarding “Complaints Against the SESP” for more information).*

5) SESPP staff or other providers involved with your student are unable to contact you. We will make reasonable attempts to reach you before ending your appointment. Please make sure we have your updated contact information!

SESP appointments are ended with an official letter from the SESPP, which is also then copied to the appropriate providers. The SESP appointment is considered active until this documentation is complete.

Q: What should I do with the students records I have in my possession after my appointment ends?

A: We recommend you forward them to the student’s DCF social worker.

Q: My student has been transferred to the custody of the Department of Youth Services (DYS). Am I still her SESP?

A: Yes, provided she still meets all the eligibility requirements of the SESPP. Students in DYS custody receive their special education services through Special Education in Institutional Settings (SEIS), an ESE program. Give the SESPP a call. We can help you figure out who the new service providers are and what your next step should be.

Q: If my appointment to a student is ended, can I be reassigned to another case?

A: Yes! You can continue to accept new appointments as long as you and the SESPP feel you are able to effectively represent students.

Q: I really enjoy being an SESP. However, due to current personal circumstances I’m not in a position to commit too much time to the role right now. What are my options?

A: We understand that life changes. It’s possible that the student(s) you are matched with are now in stable academic placements with current IEPs, and therefore aren’t likely to need quite as much active involvement from an SESP. In that case, you might be comfortable staying appointed. Or, we can transition your student to a new SESP who does have more availability.

When a Student with an SESP moves into a Foster Placement

Occasionally, a student who has been matched with an SESP will be transferred to a foster care placement by his or her social worker. Whether this is a DCF foster home or a more supported placement monitored by an intensive foster care agency, each foster parent does have the right to make special education decisions for the students in his or her home (unless this right is limited by circumstances where there is an inherent conflict of interest). If the student you are appointed to does get placed into a foster home, the following outcomes can occur:

- The foster parent is unable to take on the role of special education decision-maker due to a conflict, or refuses to take on the role. In this case, your appointment would continue and you would retain the special education decision-making rights for the student. The foster parent can be part of the decision-making process, but you, as the SESP, have the final authority.
- The foster parent wishes to make special education decisions for the student in their home. In this case, you should notify the SESPP. Your appointment would be ended, and the foster parent would assume all the rights and responsibilities associated with the role.

Q: My student was just moved into a foster home, and the foster parent asked if I could stay as the SESP until the student's services at the new school were stabilized and the foster parent felt more comfortable with the responsibilities of being special education decision-maker. I'm okay with this, but is the SESPP?

A: Yes! It can often be beneficial to have the SESP continue in his or her appointment for a period of transition, especially if all the other service providers have changed. As long as the foster parent understands the rights the SESP has in regards to the student, the SESPP will continue your appointment. Please keep us updated of any changes to your student's situation, so we are able to address specific circumstances as they arise!

When a Student Turns 18

It is important to be aware of the different circumstances that may arise after a student's 18th birthday:

- According to Massachusetts law, a student who has reached the age of majority (eighteen years of age) is an adult and is therefore presumed competent to make his or her own decisions. This presumption of competence extends to students age eighteen and older who continue to be in the care of DCF. Such students are no longer eligible for an appointed SESP. The Program will inform both the student and the SESP that the appointment will be terminated. If, despite the termination, the former SESP chooses to voluntarily continue to assist the student, he or she will be doing so independently and will not be under the direction, guidance, or with the support of the SESPP. This arrangement is made between the student, the school district, and the volunteer.

- Students between the ages of 18 and 22 may continue to have a Special Education Surrogate Parent appointed if they are deemed incompetent by the court, and are placed under the guardianship of DCF. A copy of the court order is required by the SESPP.

Q: The student I'm appointed to is about to turn 18. I'm not sure if DCF will be applying for guardianship. What should I do?

A: The best course of action would be to ask the social worker directly. Then, give us a call...we can start whatever process is needed, whether it is getting the necessary court documentation to continue your SESP appointment or ending your appointment.

Confidentiality

As the Special Education Surrogate Parent, you have access to the student's school records and other information of a confidential nature. You are responsible for ensuring the confidentiality of records pertaining to the student and for respecting the privacy and dignity of the student and the student's family. It is important that information concerning the student be shared only with those persons involved in the planning and provision of services to the student. The Contact List that accompanies your Letter of Appointment is a good guide to persons you may share student information with.

Accompanying each appointment letter you receive is an "Assurance Statement". You are required to sign the "Assurance Statement" and return it to the Special Education Surrogate Parent Program. In signing this agreement, you agree to respect the privacy and confidentiality of the student and the student's family. Anyone not complying with this requirement is acting outside of the scope of his or her responsibility.

Also, because email has become such a common and efficient communication tool, it is important to maintain student confidentiality when using email. Please use only the student's first name and last initial in any email communication.

Please contact the SESPP at 508-792-7679 or the RTSC at 617-236-7210 if you have any questions regarding this matter.

Organization Tips

As the SESP, you are part of the educational history of the student. Because of frequent moves and interrupted educational placements, it is important to “carry” the information that will follow the student through his or her educational career. Once you get the hang of it, it becomes second nature!

- Have a system to keep records organized, such as a file folder, binder, or accordion file.
- Keep copies of all letters you receive and send.
- Keep copies of anything you sign, including the IEP and consent forms.
- Put requests in writing, either as an email or a letter (keep a copy).
- Take notes during phone calls and meetings. Review them immediately afterward to add points and to clarify.
- Write an educational history of the student from information gathered in records and conversations with collaterals.
- Write a list of questions you would like answered by Team members or collaterals.
- Make a plan to check on the student’s progress on a regular basis, and document contacts.
- When trying to resolve differences, follow up conversations and meetings with a letter:
 - If you are satisfied, state what the agreements were.
 - If you are not satisfied, explain your position.
 - If you are requesting action, set timelines.
 - Ask for a written response.
- Be on time for meetings. Show that you take your responsibility seriously.
- If you need help, call the RTSC for Special Education Surrogate Parents!

Resolving Differences

Communication is the Key!

As with any situation involving advocacy and multiple parties, there may be times when disagreements arise among individuals charged with overseeing the interests and services of the children we serve. The SESP, DCF social worker, school district personnel, and other professionals working with the child may not always agree on the same course of action, services, treatment or placement.

The best advice is to communicate! Remember that everyone involved is invested in doing what is best for the child, even though everyone may not see it in the same way. Here are some tips to consider:

- Keep the focus on your student. Every child is different, and may need different services.
- Be prepared. Review records, make contact with the people on the contact list, become informed about the child's suspected or identified disability.
- At the Team meeting:
 - Listen. Everyone's perspective is valuable.
 - State your opinion. Be honest and open. Try not to be defensive.
 - Ask questions. What you are clarifying for yourself will be clarified for everyone there.
- Be a partner. Work together to find solutions.

Q: What if the school doesn't listen to my concerns about my student's special education needs?

A: School staff should respect your role as the "parent" in regards to making special education decisions. Some districts and institutions may be easier to work with than others. If, despite numerous attempts and effort on your part, you feel as if your voice is not being heard, contact the RTSC for Special Education Surrogate Parents. They can help facilitate communication, and help reinforce your role as the legally appointed special education decision-maker.

If You Disagree with the Department of Children and Families

You may not always agree with the decisions made by the DCF social worker regarding placement or treatment issues. It is important to remember that while your decision-making rights are restricted to special education, your input should be considered, as most issues will affect the education of the student in some way.

Most often, you will be providing input through the IEP process, case reviews, and in discussions with the social worker. Where a DCF decision occurs that you feel may have serious consequences to the special education services of the child, you should contact the SESPP to clarify your role and the rationale for the disagreement. You may also put your concerns in writing to the DCF social worker, the social worker's supervisor, and the DCF area program manager.

If you feel your concerns have not been adequately addressed, you may forward your concerns in writing to the assistant director of the appropriate DCF area office.

Finally, you may contact the DCF Office of the Ombudsman⁷, for assistance in clarification, mediation and resolution of issues.

If You Disagree with the School District

Most disagreements with the school district can and should be resolved through the IEP Team process. Always try to resolve issues at the local school district level first. Contacting and clarifying issues with the teacher, principal or Team chairperson is the first step in resolving disagreements. If this is not successful, you will want to move up the ladder to discuss your concerns with the special education director, and then if necessary the superintendent of schools.

If issues cannot be resolved through informal and collaborative efforts at the local level, you should access the services of the Department of Elementary and Secondary Education (ESE) to assist you. The ESE Program Quality Assurance Services (PQA)⁸ offers a problem resolution system to assist in reviewing and resolving concerns from the public. This is available through informal inquiry and assistance, as well as a formal written complaint procedure. The Bureau of Special Education Appeals (BSEA)⁹ offers mediation services provided by a neutral third party, as well as a formal due process hearing procedure.

Before accessing the services of ESE, we suggest you call the RTSC for Special Education Surrogate Parents for assistance in determining alternative solutions and for information on the services available.

Complaints Against the Special Education Surrogate Parent

If a complaint is made against an SESP, the first step in resolution is to determine if the complaint is the result of legitimate differences of opinion, or if the volunteer is actually not performing as required. The SESP has the right to make special education decisions that he or she feels are in the best interest of the student, and these decisions may not necessarily coincide with the opinions of the other Team members or DCF.

The case coordinator from the SESPP will assist all parties to understand individual roles and resolve differences.

If the situation is not resolved, a letter of complaint or request to remove an SESP must be submitted in writing to the program director. All parties are interviewed and a written decision is issued. SESP appointments may be ended as a result of a complaint under the following circumstances:

⁷ DCF Office of the Ombudsman: 617-748-2444.

⁸ PQA: 75 Pleasant Street, Malden, MA 02148. 781-338-3700. www.doe.mass.edu/pqa.

⁹ BSEA: 75 Pleasant Street, Malden, MA 02148 781) 338-6400. www.doe.mass.edu/bsea.

- The SESP has breached or compromised confidentiality by sharing information and/or records with an unauthorized party.
- The SESP has a conflict, or appearance of conflict, that prevents them from acting impartially for the student.
- The SESP has stepped outside the role of special education decision-making.
- The SESP is making decisions that are clearly not in the best interest of the student.

If either party (complainant or SESP) disagrees with the decision of the program director, they may request a due process hearing through the Bureau of Special Education Appeals.

Personal Liability

Many people are concerned about their liability in their role as a volunteer SESP. In this instance, you will be considered a “public employee” for the purpose of acquiring protection from liability for actions taken in good faith that will fall within the scope of your duties as SESP. For example, an SESP who acquires information about a student, who participates in the Team process, and accepts (or rejects) the resulting IEP on the basis of all of the available information and generally follows the guidelines or other information provided by the Department of Elementary and Secondary Education, would be protected from liability arising out of this process. If, however, the SESP uses the information acquired about the student or his/her family for purposes other than to obtain appropriate educational services for the student or if the SESP uses his/her access to the student and abuses the student, the SESP would be liable.

The SESPP strongly recommends that a third party be present at any and all of your meetings with the student. This precaution will hopefully prevent any misunderstandings and serves to protect both you and the student.

Mandated Reporting

Under Massachusetts law, the Department of Children and Families (DCF) is the state agency that receives all reports of suspected abuse and/or neglect of children under the age of 18. State law requires professionals whose work brings them in contact with children to notify DCF if they suspect that a child is being abused and/or neglected.

In the role of Volunteer SESP, you are not considered a mandated reporter.¹⁰

You may be considered a mandated reporter in a role other than the role of SESP. Please contact your employer if you have any questions.

Any person may file a report if that person has reasonable cause to believe a child is suffering from abuse or neglect. Because we are involved with children in the care and/or custody of DCF, the first person you should contact if you have concerns is the child's DCF social worker or the social worker's supervisor. If you feel the issue is not being adequately addressed, you may call the DCF Area Office Protective Screening Unit.

¹⁰ Please see Appendix C for a list of professionals defined as "mandated reporters".

Acronyms

BSEA:	Bureau of Special Education Appeals
CFR:	Code of Federal Regulations
CMR:	Code of Massachusetts Regulations
CORI:	Criminal Offender Record Information
DCF:	Department of Children and Families
DDS:	Department of Developmental Services (formerly the Department of Mental Retardation)
DMH:	Department of Mental Health
DYS:	Department of Youth Services
EDCO:	Education Collaborative of Greater Boston, Inc.
ESE:	Massachusetts Department of Elementary and Secondary Education
FAPE:	Free and Appropriate Public Education
FCSN:	Federation for Children with Special Needs
GAL:	Guardian ad Litem
IDEA:	Individuals with Disabilities Education Act
IEP:	Individualized Education Program
IFC:	Intensive Foster Care
LRE:	Least Restrictive Environment
MCAS:	Massachusetts Comprehensive Assessment System
MGL:	Massachusetts General Law
PQA:	Program Quality Assurance
RTSC:	Recruitment, Training, and Support Center for Special Education Surrogate Parents
SEIS:	Special Education in Institutional Settings
SESP:	Special Education Surrogate Parent

Agency Contact Information

Bureau of Special Education Appeals (BSEA)

c/o Massachusetts Department of Elementary and Secondary Education
75 Pleasant Street
Malden, MA 02148-4906
Phone: 781-338-6400
Fax: 781-338-6400
www.doe.mass.edu/bsea

Department of Children and Families (DCF)

Central Office:
600 Washington Street
Boston, MA 02211
Phone: 617-748-2000
Fax: 617-261-7435
www.mass.gov/dcf

For specific regional office information, please visit the DCF website or call the SESPP.

Department of Developmental Services (DDS)

(Formerly the Department of Mental Retardation)

Central Office:
500 Harrison Avenue
Boston, MA 02118
Phone: 617-727-5608
Fax: 617-624-7577
TTY: 617-624-7783
www.mass.gov/dds

For specific regional office information, please visit the DDS website or call the SESPP.

Department of Mental Health (DMH)

Central Office
25 Staniford Street
Boston, MA 02114
Phone: 617-626-8000
TTY: 617-727-9842
www.mass.gov/dmh

For specific regional office information, please visit the DMH website or call the SESPP.

Department of Youth Services (DYS)

Central Office:
600 Washington Street, 4th Floor
Boston, MA 02211
Phone: 617-727-7575
www.mass.gov/dys

For specific regional office information, please visit the DYS website or call the SESPP.

Education Collaborative of Greater Boston, Inc. (EDCO)

281 Winter Street
Waltham, MA 02451
Phone: 617-738-5600
www.edcollab.org

Federation for Children with Special Needs (FCSN)

Recruitment, Training, and Support Center (RTSC) for Special Education Surrogate Parents

529 Main Street, Suite 1102
Boston, MA 02129
Phone: 617-236-7210, 800-331-0688
Fax: 617-572-2094
www.fcsn.org/rtsc

Massachusetts Department of Elementary and Secondary Education (ESE)

75 Pleasant Street
Malden, MA 02148
Phone: 781-338-3000
TTY: 800-439-2370
www.doe.mass.edu

Program Quality Assurance (PQA)

c/o Massachusetts Department of Elementary and Secondary Education
75 Pleasant Street
Malden, MA 02148.
Phone: 781-338-3700
www.doe.mass.edu/pqa

Special Education in Institutional Settings (SEIS)

Central Office:
c/o Massachusetts Department of Elementary and Secondary Education
75 Pleasant Street
Malden, MA 02148.
Phone: 781-338-3303
Fax: 781-338-3371
www.doe.mass.edu/seis

For specific regional office information, please visit the SEIS website or call the SESPP.

Appendix A

Laws and Regulations

Federal Law January 2004, Section 615

Section 615 (2)

(A) Procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual to act as a surrogate for the parents, which surrogate shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child. In the case of-

- (i) a child who is a ward of the State, such surrogate may alternatively be appointed by the judge overseeing the child's care provided that the surrogate meets the requirements of this paragraph; and
- (ii) an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)), the local educational agency shall appoint a surrogate in accordance with this paragraph.

(B) The State shall make reasonable efforts to ensure the assignment of a surrogate not more than 30 days after there is a determination by the agency that the child needs a surrogate.

Federal Regulations Implementing IDEA (issued 8/14/06; in effect 10/13/06)

Sec. 300.519 Surrogate Parents.

(a) General. Each public agency must ensure that the rights of a child are protected when-

- (1) No parent (as defined in Sec. 300.30) can be identified;
- (2) The public agency, after reasonable efforts, cannot locate a parent;
- (3) The child is a ward of the State under the laws of that State; or
- (4) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)).

(b) Duties of public agency. The duties of a public agency under paragraph (a) of this section include the assignment of an individual to act as a surrogate for the parents. This must include a method--

- (1) For determining whether a child needs a surrogate parent; and
- (2) For assigning a surrogate parent to the child.

(c) Wards of the State. In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate meets the requirements in paragraphs (d)(2)(i) and (e) of this section.

(d) Criteria for selection of surrogate parents.

- (1) The public agency may select a surrogate parent in any way permitted under State law.
- (2) Public agencies must ensure that a person selected as a surrogate parent--
 - (i) Is not an employee of the SEA, the LEA, 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.

(e) Non-employee requirement; compensation. A person otherwise qualified to be a surrogate parent under paragraph (d) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(f) Unaccompanied homeless youth. In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to paragraph (d)(2)(i) of this section, until a surrogate parent can be appointed that meets all of the requirements of paragraph (d) of this section.

(g) Surrogate parent responsibilities. The surrogate parent may represent the child in all matters relating to--

- (1) The identification, evaluation, and educational placement of the child; and
- (2) The provision of FAPE to the child.

(h) SEA responsibility. The SEA must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

(Authority: 20 U.S.C. 1415(b)(2))

Massachusetts Regulations 603 CMR Section 28.07 (July 2005)

(7) Educational surrogate parent - District responsibility. When a student is without parental representation and requires an educational surrogate parent to be appointed in accordance with federal law and regulations, the Department may request assistance from the district responsible for services to the student in identifying a person willing to serve as an educational surrogate parent.

(a) Upon assignment by the Department, such educational surrogate parent shall have all the rights and responsibilities of a parent in making decisions regarding eligibility and services for special education for the assigned student. The Department shall provide notice of appointment to the school district and any state agency with custody of the student.

(b) A person identified by the district and willing to serve as an educational surrogate parent shall have no conflict of interest and shall not be in the employ of the school district or any state or local agencies involved with the care of the student.

(c) A person identified by the district, appointed by the Department, and serving as an educational surrogate parent shall not receive financial remuneration from the district except that the school district shall reimburse the person for reasonable expenses related to the exercise of his or her responsibilities as an educational surrogate parent for a student enrolled in the district.

Appendix B

Job Description

Title: Special Education Surrogate Parent

Purpose and Impact: To advocate in the best interest of a student in state custody in the place of a parent, in all matters relating to special education. This unique volunteer role does not involve working directly with students, but rather as a member of the student's special education Team.

Specific Responsibilities:

- Volunteers act on behalf of the student(s) they are appointed to with all of the rights and authority of a parent in matters of special education without the financial responsibility.
- Meet with and observe the child at school.
- Review all school records and receive progress reports.
- Sign evaluation consent forms.
- Attend education related meetings for the student and be involved in the planning and discussions regarding their special educational needs.
- Approve an Individualized Education Program (IEP) for their student.
- Monitor the student's services, progress and educational placement.
- Respect the confidentiality of all records and information related to the student.
- Update the Program on any changes regarding the student.

Qualifications: The most important qualification is an interest in helping students who require special education services.

Volunteers must:

- Be at least 18 years of age.
- Submit an application, provide two (2) references, and complete a Criminal Record Offender Record Information (CORI).
- Have or be willing to obtain knowledge of the special education process through an Orientation Training.

Time Commitment and Duration: Stability and continuity are critical for the students we serve. Volunteers are requested to make a one-year commitment to their student. Our volunteers tell us that on average they spend 10-20 hours per year volunteering for their student.

Benefits:

- Be an integral member of your student's special education Team.
- Play a key role in the academic success and educational growth for students.
- Receive ongoing training, technical assistance and support from the SESPP and the RTSC for Special Education Surrogate parents.
- Utilize your Resource Materials from the Orientation Training throughout your appointment.
- Be a Champion for a student with special needs. Make a Difference!

Appendix C

Mandated Reporters

Massachusetts law (MGL Chapter 119, sections 51A-E) defines the following professionals as mandated reporters:

- Physicians, medical interns, hospital personnel engaged in the examination, care or treatment of persons, medical examiners;
- Emergency medical technicians, dentists, nurses, chiropractors, podiatrists, optometrists, osteopaths;
- Public or private school teachers, educational administrators, guidance or family counselors;
- Child Care licensors, such as staff from the Department of Early Education and Care;
- Early education, preschool, child care or afterschool program staff, including any person paid to care for, or work with, a child in any public or private facility, home or program funded or licensed by the Commonwealth, which provides child care or residential services. This includes child care resource and referral agencies, as well as voucher management agencies, family child care and child care food programs;
- Social workers, foster parents, probation officers, clerks magistrate of the district courts, and parole officers;
- Firefighters or police officers;
- School attendance officers, allied mental health and licensed human services professionals;
- Psychiatrists, psychologists and clinical social workers, drug and alcoholism counselors; and
- Clergy members, including ordained or licensed leaders of any church or religious body, persons performing official duties on behalf of a church or religious body, or religious body to supervise, educate, coach, train or counsel a child on a regular basis.