

## PENNSYLVANIA DISTANCE LEARNING CHARTER SCHOOL

**Book:** Policy Manual

**Section:** Programs

**Title:** Surrogate Parent and Emancipated Youth in Special Education Policy

**Reference:** 34 CFR 300.519, 300.30, 300.45  
22 PA Code 11.11

**Adopted:** December 3, 2012

**Revised:**

**PURPOSE:** Pennsylvania Distance Learning Charter School (PDLCS) aims to ensure the rights of children are protected; specific to this POLICY, children who are wards of the state, whose parent(s) or guardian(s) cannot be located, or who are emancipated minors. Both the Code of Federal Regulations (34 CFR 300.30) and the Pennsylvania Department of Education, Bureau of Special Education require school districts to develop and maintain procedures for (1) determining whether a child needs a surrogate parent; and (2) assigned a surrogate parent to the child. As such, PDLCS has introduced and will maintain this Policy and a set of procedures assuring the identification and appointment of a surrogate parent for children in need of such presence as defined in this document.

**SCOPE:** Special educators and administrators who encounter children thought to be or who are currently IDEA eligible.

**POLICY AUTHORITY:** Policy draft is reviewed by the CEO of PDLCS; then (1) sent to the Board of Trustees, and (2) presented at the next formal, public Board Meeting for review, public comments and approval.

### **DEFINITIONS:**

**Emancipated Minor:** (1) a person age 16 and over but age 21 years or younger who has chosen to establish domicile apart from the continued control of parent(s) or guardian(s). (2) A minor living with a spouse is deemed emancipated. (3) An orphan, age 16 or older, and who has sufficient mental ability to make a bargain; a minor who is married, regardless of whether the person continues to live the spouse. If the marriage is terminated by divorce or death of the spouse, the minor continues to be emancipated. If the marriage is terminated by annulment, the state of emancipation is as though the marriage never occurred. (4) An unmarried child committed to the care and control of the county authority can become emancipated before the age of 18 only by action of the court.

A school district should presume that all enrolled students are not emancipated absent (1) a request by a student to be considered emancipated for school purposes; and (2) that student provides satisfactory

evidence that she or he meets the legal definition of an “emancipated minor” as set forth in 22. P.A. Code 11.11.

**Unemancipated Minor:** A minor who has never been married or has the marriage annulled, but who remains under the control of the parents is unemancipated whether s/he lives in the parent household or not.

**Parent:** (1) A biological or adoptive parent of the child; (2) A foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent; (3) A guardian generally authorized to act as the child’s parent or authorized to make educational decisions for the child (but not the State, if the child is a ward of the State); (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or (5) A surrogate parent who has been appointed in accordance with 300.519 or Section 639 (a)(5).

**Surrogate Parent:** An individual who meets specific qualifications and volunteers to perform the duties of a parent or guardian in the special education process.

**Ward of the State:** For IDEA purposes, Ward of the State is defined in 34 CFR 300.45 as a child who, as determined by the state where the child lives, is (1) a foster child; (2) a ward of the state; (3) in custody of a public child welfare agency.

**DETAILED POLICY STATEMENT:** PDLCS will ensure that the rights of a child are protected when:

- No parent can be identified (see definition of parent);
- The public agency cannot, after reasonable efforts, locate a parent;
- The child is a ward of the State under the laws of that State, or;
- The child is an unaccompanied homeless youth as defined in section 725 (6) of the McKinney Vento Homeless Assistance Act.

PDLCS will review and maintain procedures for determining whether a child needs a surrogate parent and for assigning a surrogate parent to the child.

- If the child is a ward of the State, the judge overseeing the case may appoint the surrogate parent providing the surrogate meets the requirements of 34 CFR 300.15; (d)(2)(i) as further described.
- Criteria for selecting a surrogate parent: the school or judge may appoint a surrogate but must ensure that the individual selected (1) is not an employee of the SEA, the LEA or any other agency that is involved in the education or care of the child; (2) has not personal or professional interest that conflicts with the interest of the child the surrogate represents; and (3) has knowledge and skill that ensures adequate representation of the child.
- Non-employee requirement – compensation: A person otherwise qualified to be a surrogate parent is not considered an employee of the agency/district solely because he or she is paid by the district/agency to serve as a surrogate parent.

- Unaccompanied Homeless Youth: Children who are homeless and therefore unaccompanied by an adult may disregard “criteria for selecting surrogate parent”. It is deemed appropriate in this situation to have staff of emergency shelters, transitional shelters, independent living programs and street outreach programs as temporary surrogate parents until one can be appointed.
- Responsibilities of surrogate parents: To represent the child in all matters related to identification, evaluation and educational placement of the child as well as the provisions of FAPE to the child.