

Chapter 136

(Senate Bill 120)

AN ACT concerning

Education – Children With Disabilities – Parent Surrogates

FOR the purpose of adding the Department of Labor, Licensing, and Regulation and the Department of Public Safety and Correctional Services to the list of public agencies required to request a local school system superintendent to appoint a parent surrogate to represent a child at any point in the educational decision making process if it is suspected that the child may be disabled; requiring that, for purposes of a request for appointment of a parent surrogate, efforts to identify certain parents be made over a certain period of time and that documentation of those efforts include certain searches and letters sent by certified mail; and generally relating to education and the appointment of parent surrogates for children with disabilities.

BY repealing and reenacting, with amendments,

Article – Education

Section 8–412(a)

Annotated Code of Maryland

(2008 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, without amendments,

Article – Education

Section 8–412(b) and (c)

Annotated Code of Maryland

(2008 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

8–412.

(a) (1) In this section the following words have the meanings indicated.

(2) “Child” means an individual who is eligible to receive education services in accordance with the Individuals with Disabilities Education Act and applicable State law and regulation.

(3) “Educational decision making process” means all procedures relating to the identification, evaluation, or educational placement of a child and the provision of a free appropriate public education, including the appeal procedures provided for by § 8–413 of this subtitle.

(4) “Local school superintendent” means the school system superintendent or the administrative head in charge of a public agency as defined in paragraph (7) of this subsection that provides educational services to children.

(5) (i) “Parent” means:

1. A child’s natural parents;
2. A child’s adoptive parents;
3. A guardian;
4. A person acting as a parent of a child such as a relative or a stepparent with whom a child lives;
5. A foster parent with whom a child lives if the foster parent has been granted limited guardianship for educational decision making purposes by the court that has placed the child in foster care; or
6. Any other individual who is legally responsible for a child’s welfare.

(ii) “Parent” does not include a social worker or other employee of a public agency who is responsible for the education or care of the child.

(6) “Parent surrogate” means a person who is appointed by the local school superintendent to act in place of a parent of a child in the educational decision making process.

(7) **(I)** “Public agency” includes the State Department of Education, local education agencies, and other agencies that are responsible for providing education to a child with a disability, including the Department of Health and Mental Hygiene, Mental Hygiene Administration, the Developmental Disabilities Administration, the Department of Juvenile Services, [and] the Maryland School for the Deaf, **THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, AND THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.**

(II) For the purpose of this section, the Maryland School for the Blind shall be considered a public agency.

(8) “Unaccompanied homeless youth” means a homeless youth, as defined by the McKinney–Vento Homeless Assistance Act, who is not in the physical custody of a parent or guardian.

(9) “Unavailable” means that a public agency, after reasonable efforts, cannot discover the physical whereabouts of a child’s parent.

(10) “Unknown” means that a public agency, after reasonable efforts, cannot identify the child’s parent.

(11) “Ward of the State” means a child for whom a State or county agency or official has been appointed legal guardian, or who has been committed by a court of competent jurisdiction to the legal custody of a State or county agency or official with the express authorization that the State or county agency or official make educational decisions for the child.

(b) Public agency personnel shall request that the local school superintendent appoint a parent surrogate to represent a child at any point in the educational decision making process if it is suspected that the child may be disabled and if:

(1) The child is a ward of the State;

(2) The child is an unaccompanied homeless youth; or

(3) (i) The parents of the child are unknown or unavailable; and

(ii) The child’s rights have not been transferred in accordance with § 8–412.1 of this subtitle.

(c) Any request to the local school superintendent for the appointment of a parent surrogate under subsection (b) of this section shall include:

(1) The name, date of birth, sex, legal domicile, and present residence of the child;

(2) A statement that the child is eligible for the appointment of a parent surrogate in accordance with subsection (b) of this section;

(3) Documentation, as applicable, of the efforts made **OVER THE COURSE OF 15 BUSINESS DAYS** to identify the parent if unknown or to locate the parent if unavailable **THAT INCLUDE, AT A MINIMUM:**

(I) A SEARCH OF TELEPHONE DIRECTORIES; AND

(II) LETTERS SENT BY CERTIFIED MAIL; and

(4) The name and qualifications of the proposed parent surrogate whom the public agency considers to be qualified to represent the child in the educational decision making process.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2014.

Approved by the Governor, April 14, 2014.