

## PARENT

Authorities: 42 USC §11434a; 34 CFR Parts 99 and 300; Texas Education Code; Texas Family Code; 19 TAC Chapter 89

### [Additional Resources](#)

DOCUMENT/ PRACTICE	FEDERAL AND STATE REQUIREMENTS	CITATIONS
P	For an adult student, the local education agency (LEA) must comply with the <a href="#">ADULT STUDENT AND TRANSFER OF RIGHTS</a> framework.	
P	For a child who is incarcerated in an adult or juvenile, state or local correctional institution, the LEA must comply with the <a href="#">CHILDREN WHO ARE INCARCERATED</a> framework.	
P	The LEA must comply with the <a href="#">RECORDS</a> frameworks as applicable.	
	<b>IDENTIFICATION OF PARENT</b>	
P	<i>Parent</i> means:	<a href="#">300.30(a) 99.3</a>
P	<ul style="list-style-type: none"> <li>A biological or adoptive parent of the child;</li> </ul>	<a href="#">300.30(a)(1)</a>
P	<ul style="list-style-type: none"> <li>A foster parent of the child who meets the <a href="#">REQUIREMENTS FOR A FOSTER PARENT TO ACT AS A PARENT</a></li> </ul>	<a href="#">300.30(a)(2)</a>
P	<ul style="list-style-type: none"> <li>A guardian, but not the state, if the child is a ward of the state;</li> </ul>	<a href="#">300.30(a)(3)</a>
P	<ul style="list-style-type: none"> <li>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</li> </ul>	<a href="#">300.30(a)(4)</a>
P	<ul style="list-style-type: none"> <li>An individual assigned to be a surrogate parent.</li> </ul>	<a href="#">300.30(a)(5)</a>
	<b>REQUIREMENTS FOR FOSTER PARENT TO ACT AS PARENT</b>	

DOCUMENT/ PRACTICE	FEDERAL AND STATE REQUIREMENTS	CITATIONS
P	A foster parent may act as a parent of a child with a disability if the following criteria are met:	<a href="#">89.1047(a)</a> <a href="#">TEC 29.015(a)</a> <a href="#">TEC 29.015(b)</a>
D	<ul style="list-style-type: none"> <li>The Department of Family and Protective Services (DFPS) is appointed as the temporary or permanent managing conservator of the child;</li> </ul>	<a href="#">TEC 29.015(a)(1)</a>
D	<ul style="list-style-type: none"> <li>The rights and duties of the DFPS to make decisions regarding education provided to the child have not been limited by court order;</li> </ul>	<a href="#">TEC 29.015(a)(2)</a>
D	<ul style="list-style-type: none"> <li>The foster parent agrees to participate in making special education decisions on the child's behalf;</li> </ul>	<a href="#">TEC 29.015(a)(3)(A)</a>
D	<ul style="list-style-type: none"> <li>The foster parent agrees to complete a <a href="#">TRAINING PROGRAM FOR FOSTER AND SURROGATE PARENTS</a> that complies with the requirements of this framework; and</li> </ul>	<a href="#">TEC 29.015(a)(3)(B)</a>
D	<ul style="list-style-type: none"> <li>The foster parent completes a <a href="#">TRAINING PROGRAM FOR FOSTER AND SURROGATE PARENTS</a> before the next scheduled admission, review, and dismissal (ARD) committee meeting for the child but not later than the 90th day after the date the foster parent begins acting as the parent for the purpose of making special education decisions.</li> </ul>	<a href="#">89.1047(a)(1)</a> <a href="#">TEC 29.015(b)</a>
P	Not later than the fifth day after the date the child with a disability is enrolled in a school, the DFPS must inform the appropriate LEA if the child's foster parent is unwilling or unable to serve as a parent for the purposes of this framework.	<a href="#">TEC 29.015(d)</a>
P	The LEA must ensure that the foster parent has received a <a href="#">TRAINING PROGRAM FOR FOSTER AND SURROGATE PARENTS</a> that complies with the requirements of this framework.	<a href="#">89.1047(a)(1)</a>
P	Once an individual has completed a <a href="#">TRAINING PROGRAM FOR FOSTER AND SURROGATE PARENTS</a> , the individual must not be required by any LEA to complete additional training in order to serve as the	<a href="#">89.1047(a)(2)</a> <a href="#">TEC 29.015(b-1)</a>

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	parent for the child or other children with disabilities who are in foster care.	
D	If the LEA denies a foster parent the right to serve as a parent, the LEA must provide the foster parent with written notice of such denial within seven calendar days after the date on which the decision is made. The written notice must:	<a href="#">89.1047(b)</a>
D	<ul style="list-style-type: none"> <li>Specifically explain why the foster parent is being denied the right to serve as the child's parent; and</li> </ul>	<a href="#">89.1047(b)(1)</a>
D	<ul style="list-style-type: none"> <li>Inform the foster parent of the right to file a complaint with the Texas Education Agency (TEA).</li> </ul>	<a href="#">89.1047(b)(2)</a> <a href="#">TEC 29.015(c)</a>
<b>APPOINTMENT OF A SURROGATE PARENT</b>		
P	The appointment of a surrogate parent applies to children with disabilities for whom:	<a href="#">TEC 29.0151(a)</a>
D	<ul style="list-style-type: none"> <li>The DFPS is appointed as the temporary or permanent managing conservator of the child; and</li> </ul>	<a href="#">TEC 29.0151(a)(1)</a>
D	<ul style="list-style-type: none"> <li>The rights and duties of the DFPS to make decisions regarding education provided to the child have not been limited by court order.</li> </ul>	<a href="#">TEC 29.0151(a)(2)</a>
P	The LEA must make reasonable efforts to appoint a surrogate parent not more than 30 days after there is a determination that the child needs a surrogate parent unless the judge overseeing the child's care appoints the surrogate parent.	<a href="#">300.519(h)</a> <a href="#">TX Family Code 263.0025</a>
P	When a surrogate parent has not been appointed by the judge, the LEA must appoint a surrogate parent if:	<a href="#">89.1047(c)</a> <a href="#">TEC 29.0151(b)</a> <a href="#">300.519(a)</a>
D	<ul style="list-style-type: none"> <li>The LEA cannot identify a parent for the child;</li> </ul>	<a href="#">89.1047(c)</a> <a href="#">TEC 29.0151(b)(1)</a> <a href="#">300.519(a)(1)</a>

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D	<ul style="list-style-type: none"> <li>The LEA cannot, after reasonable efforts, locate a parent for the child;</li> </ul>	<a href="#">89.1047(c)</a> <a href="#">TEC 29.0151(b)(1)</a> <a href="#">300.519(a)(2)</a>
D	<ul style="list-style-type: none"> <li>The foster parent of the child is unwilling or unable to serve as a parent for the purposes of this framework;</li> </ul>	<a href="#">89.1047(c)</a> <a href="#">TEC 29.0151(b)(2)</a>
D	<ul style="list-style-type: none"> <li>The child does not reside in a foster home setting;</li> </ul>	<a href="#">89.1047(c)</a>
D	<ul style="list-style-type: none"> <li>The child is a ward of the state; or</li> </ul>	<a href="#">300.519(a)(3)</a> <a href="#">300.519(c)</a>
D	<ul style="list-style-type: none"> <li>The child is an unaccompanied homeless youth.</li> </ul>	<a href="#">300.519(a)(4)</a> <a href="#">300.519(f)</a> <a href="#">42 USC 11434a(6)</a>
P	<p>The LEA must ensure that a person appointed as a surrogate parent is not:</p>	<a href="#">89.1047(d)</a> <a href="#">TEC 29.0151(c)</a> <a href="#">300.519(d)(2)</a> <a href="#">300.519(e)</a>
P	<ul style="list-style-type: none"> <li>An employee of the <del>state</del>TEA;</li> </ul>	<a href="#">89.1047(b)</a> <a href="#">300.519(d)(2)(i)</a>
P	<ul style="list-style-type: none"> <li>An employee of the <del>TEA</del>LEA;</li> </ul>	<a href="#">89.1047(d)</a> <a href="#">TEC 29.0151(c)(1)</a> <a href="#">300.519(d)(2)(i)</a>
P	<ul style="list-style-type: none"> <li>An employee of <del>any other agency that is involved in the LEA</del>education or care of the child; or</li> </ul>	<a href="#">89.1047(d)</a> <a href="#">TEC 29.0151(c)(1)</a> <a href="#">300.519(d)(2)(i)</a>
P	<ul style="list-style-type: none"> <li><del>An employee of A person with any other agency interest that is involved in</del>conflicts with the education or care<del>interest</del> of the child; or the surrogate parent represents.</li> </ul>	<a href="#">89.1047(d)</a> <a href="#">TEC 29.0151(c)(2)</a> <a href="#">300.519(d)(2)(ii)</a>
P	<ul style="list-style-type: none"> <li><del>A person with any interest that conflicts with the interest of the child the surrogate parent represents.</del></li> </ul>	<del><a href="#">TEC 29.0151(c)(2)</a></del> <del><a href="#">300.519(d)(2)(ii)</a></del>

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P	The LEA must develop and implement procedures for conducting an analysis of whether a potential surrogate parent has an interest that conflicts with the interests of the child. Issues concerning quality of care of the child do not constitute a conflict of interest.	<a href="#">89.1047(d)</a>
P	The LEA may appoint a person who has been appointed to serve as the child's guardian ad litem or as a court-certified volunteer advocate, as the child's surrogate parent.	<a href="#">TEC 29.0151(e)</a> <a href="#">TX Family Code 107.031(c)</a>
P	The LEA must ensure that a surrogate parent appointed by the LEA:	<a href="#">TEC 29.0151(d)</a> <a href="#">TEC 29.001(10)</a>
P	<ul style="list-style-type: none"> <li>• Is willing to serve in that capacity;</li> </ul>	<a href="#">TEC 29.0151(d)(1)</a>
P	<ul style="list-style-type: none"> <li>• Exercises independent judgment in pursuing the child's interests;</li> </ul>	<a href="#">TEC 29.0151(d)(2)</a> <a href="#">TEC 29.001(10)(F)</a>
P	<ul style="list-style-type: none"> <li>• Ensures that the child's due process rights under applicable state and federal laws are not violated;</li> </ul>	<a href="#">TEC 29.0151(d)(3)</a> <a href="#">TEC 29.001(10)(G)</a>
P	<ul style="list-style-type: none"> <li>• Visits the child and the child's school;</li> </ul>	<a href="#">TEC 29.0151(d)(5)</a> <a href="#">TEC 29.001(10)(B)</a>
P	<ul style="list-style-type: none"> <li>• Reviews the child's educational records;</li> </ul>	<a href="#">TEC 29.0151(d)(6)</a> <a href="#">TEC 29.001(10)(D)</a>
P	<ul style="list-style-type: none"> <li>• Consults with persons involved in the child's education, including teachers, caseworkers, court-appointed volunteers, guardians ad litem, attorneys ad litem, foster parents, and caregivers;</li> </ul>	<a href="#">TEC 29.0151(d)(7)</a> <a href="#">TEC 29.001(10)(C)</a>
P	<ul style="list-style-type: none"> <li>• Attends meetings of the child's <u>ADMISSION, REVIEW, AND DISMISSAL COMMITTEE</u>; and</li> </ul>	<a href="#">TEC 29.0151(d)(8)</a> <a href="#">TEC 29.001(10)(E)</a>
P	<ul style="list-style-type: none"> <li>• Completes a <u>TRAINING PROGRAM FOR FOSTER AND SURROGATE PARENTS</u> before the next scheduled ARD committee meeting for the child but not later than the 90th day after the</li> </ul>	<a href="#">89.1047(c)(3)</a> <a href="#">TEC 29.0151(d)(4)</a> <a href="#">TEC 29.001(10)(A)</a> <a href="#">300.519(d)(2)(iii)</a>

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	date of initial assignment as a surrogate parent.	
P	Once an individual has completed a <a href="#">TRAINING PROGRAM FOR FOSTER AND SURROGATE PARENTS</a> , the individual must not be required by any LEA to complete additional training in order to serve as the surrogate parent for the child or other children with disabilities who are in foster care.	<a href="#">89.1047(c)(4)</a> <a href="#">TEC 29.015(b-1)</a>
	<b>CHILDREN WHO ARE HOMELESS OR IN SUBSTITUTE CARE</b>	
P	For children who are homeless or in substitute care, the LEA must also provide notice to the child's educational decision-maker and caseworker regarding:	<a href="#">TEC 25.007(b)(10)(A)</a>
P	<ul style="list-style-type: none"> <li>• An <a href="#">ADMISSION, REVIEW, AND DISMISSAL COMMITTEE MEETING</a>;</li> </ul>	<a href="#">TEC 25.007(b)(10)(B)</a>
P	<ul style="list-style-type: none"> <li>• <a href="#">MANIFESTATION DETERMINATION</a> reviews; and</li> </ul>	<a href="#">TEC 25.007(b)(10)(C)</a>
P	<ul style="list-style-type: none"> <li>• The appointment of a surrogate parent.</li> </ul>	<a href="#">TEC 25.007(b)(10)(H)</a> <a href="#">TEC 29.0151(e-1)</a>
	<b>COURT-APPOINTED SURROGATE PARENT FAILURE TO PERFORM DUTIES</b>	
P	If a court appoints a surrogate parent for the child with a disability, and the LEA determines that the surrogate parent is not properly performing the duties listed under this framework, the LEA must consult with the DFPS regarding whether another person should be appointed to serve as the surrogate parent for the child.	<a href="#">89.1047(e)</a> <a href="#">TEC 29.0151(f)</a> <a href="#">TX Family Code 263.0025</a>
	<b>TRAINING PROGRAM FOR FOSTER AND SURROGATE PARENTS</b>	
P	The required training program must provide foster and surrogate parents with an explanation of the provisions of federal and state laws, rules, and regulations relating to:	<a href="#">89.1047(a)(1)</a> <a href="#">89.1047(c)(1)</a> <a href="#">TEC 29.001(10)(A)</a> <a href="#">300.519(d)(2)(iii)</a>

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P	<ul style="list-style-type: none"> <li>The identification of the child with a disability as described in the <u>CHILD FIND</u> frameworks;</li> </ul>	<a href="#">89.1047(c)(1)(A)</a>
P	<ul style="list-style-type: none"> <li>The collection of evaluation and reevaluation data relating to the child with a disability as described in the <u>EVALUATION</u> frameworks;</li> </ul>	<a href="#">89.1047(c)(1)(B)</a>
P	<ul style="list-style-type: none"> <li>The <u>ADMISSION, REVIEW, AND DISMISSAL COMMITTEE</u> process;</li> </ul>	<a href="#">89.1047(c)(1)(C)</a>
P	<ul style="list-style-type: none"> <li>The development of an individualized education program (IEP) and, for the child who is at least 16 years of age, <u>TRANSITION SERVICES</u>;</li> </ul>	<a href="#">89.1047(c)(1)(D)</a>
P	<ul style="list-style-type: none"> <li>The determination of <u>LEAST RESTRICTIVE ENVIRONMENT</u>;</li> </ul>	<a href="#">89.1047(c)(1)(E)</a>
P	<ul style="list-style-type: none"> <li>The implementation of an IEP as described in the <u>ADMISSION, REVIEW, AND DISMISSAL COMMITTEE</u> frameworks;</li> </ul>	<a href="#">89.1047(c)(1)(F)</a>
P	<ul style="list-style-type: none"> <li>The <u>Notice of Procedural Safeguards</u>;</li> </ul>	<a href="#">89.1047(c)(1)(G)</a>
P	<ul style="list-style-type: none"> <li>The sources that the surrogate parent may contact to obtain assistance in understanding the provisions of federal and state laws, rules, and regulations relating to children with disabilities; and</li> </ul>	<a href="#">89.1047(c)(1)(H)</a>
P	<ul style="list-style-type: none"> <li>The duties and responsibilities of surrogate parents under state law.</li> </ul>	<a href="#">89.1047(c)(1)(I)</a> <a href="#">TEC 29.0151(d)</a>
P	The training program must be provided in the native language or other mode of communication used by the individual being trained.	<a href="#">89.1047(c)(2)</a>
P	LEAs may provide optional ongoing or supplemental training.	<a href="#">89.1047(a)(2)</a> <a href="#">89.1047(c)(4)</a>

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P	The required training may be conducted or provided by:	<a href="#">89.1047(a)(2)</a> <a href="#">89.1047(c)(4)</a> <a href="#">TEC 29.015(b-1)</a>
P	<ul style="list-style-type: none"> <li>• The DFPS;</li> </ul>	<a href="#">89.1047(a)(2)</a> <a href="#">89.1047(c)(4)</a> <a href="#">TEC 29.015(b-1)(1)</a>
P	<ul style="list-style-type: none"> <li>• The LEA;</li> </ul>	<a href="#">89.1047(a)(2)</a> <a href="#">89.1047(c)(4)</a> <a href="#">TEC 29.015(b-1)(2)</a>
P	<ul style="list-style-type: none"> <li>• An education service center; or</li> </ul>	<a href="#">89.1047(a)(2)</a> <a href="#">89.1047(c)(4)</a> <a href="#">TEC 29.015(b-1)(3)</a>
P	<ul style="list-style-type: none"> <li>• Any entity that receives federal funds to provide Individuals with Disabilities Education Act training to parents.</li> </ul>	<a href="#">89.1047(a)(2)</a> <a href="#">89.1047(c)(4)</a> <a href="#">TEC 29.015(b-1)(4)</a>

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