

# THE MASSACHUSETTS EDUCATION SURROGATE PARENT PROGRAM

Prepared by the Mental Health Legal Advisors Committee  
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## What is the education surrogate parent program of the Department of Elementary and Secondary Education?

Children in the care or custody of the Department of Children and Families (DCF) may be able to access an educational surrogate parent (ESP) who will make decisions related to the child's special education needs when the child's parents are unable or unavailable to do so.<sup>1</sup> Whether or not the child is eligible for an ESP depends on the reason why the child is in DCF custody – for example, all children in DCF custody for protective reasons are entitled to an ESP, but children in care or custody for child related issues as distinct from parental issues are likely not to be appointed an ESP.<sup>2</sup> If a child is in need of and eligible for an ESP, a DCF worker should refer the child to the ESP Program.<sup>3</sup> If a child is in foster care, DCF will usually request that the Program appoint a child's foster parent as his ESP.<sup>4</sup>

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<sup>1</sup> Memorandum from Lewis H. Spence, Commissioner of the Massachusetts Department of Social Services and David P. Driscoll, Commissioner of the Massachusetts Department of Education to DSS Staff, Administrators of Special Education, and Directors of Massachusetts Private Special Education Schools 2 (Oct. 28, 2002), [http://www.publiccounsel.net/practice\\_areas/cafl\\_pages/pdf/practice\\_aids/guidance\\_appointement\\_educational\\_surrogate\\_parents.pdf](http://www.publiccounsel.net/practice_areas/cafl_pages/pdf/practice_aids/guidance_appointement_educational_surrogate_parents.pdf).

<sup>2</sup> Memorandum from Lewis H. Spence, Commissioner of the Massachusetts Department of Social Services and David P. Driscoll, Commissioner of the Massachusetts Department of Education to DSS Staff, Administrators of Special Education, and Directors of Massachusetts Private Special Education Schools 3-4 (Oct. 28, 2002), [http://www.publiccounsel.net/practice\\_areas/cafl\\_pages/pdf/practice\\_aids/guidance\\_appointement\\_educational\\_surrogate\\_parents.pdf](http://www.publiccounsel.net/practice_areas/cafl_pages/pdf/practice_aids/guidance_appointement_educational_surrogate_parents.pdf).

<sup>3</sup> Memorandum from Lewis H. Spence, Commissioner of the Massachusetts Department of Social Services and David P. Driscoll, Commissioner of the Massachusetts Department of Education to DSS Staff, Administrators of Special Education, and Directors of Massachusetts Private Special Education Schools 4 (Oct. 28, 2002), [http://www.publiccounsel.net/practice\\_areas/cafl\\_pages/pdf/practice\\_aids/guidance\\_appointement\\_educational\\_surrogate\\_parents.pdf](http://www.publiccounsel.net/practice_areas/cafl_pages/pdf/practice_aids/guidance_appointement_educational_surrogate_parents.pdf).

<sup>4</sup> Memorandum from Lewis H. Spence, Commissioner of the Massachusetts Department of Social Services and David P. Driscoll, Commissioner of the Massachusetts Department of Education to DSS Staff, Administrators of Special Education, and Directors of Massachusetts Private Special Education Schools 5 (Oct. 28, 2002), [http://www.publiccounsel.net/practice\\_areas/cafl\\_pages/pdf/practice\\_aids/guidance\\_appointement\\_educational\\_surrogate\\_parents.pdf](http://www.publiccounsel.net/practice_areas/cafl_pages/pdf/practice_aids/guidance_appointement_educational_surrogate_parents.pdf).

**Resources:**

Mass. Special Education Surrogate Parent Program, <http://www.sespprogram.org/> and [http://www.publiccounsel.net/practice\\_areas/cafl\\_pages/pdf/practice\\_aids/guidance\\_appointment\\_educational\\_surrogate\\_parents.pdf](http://www.publiccounsel.net/practice_areas/cafl_pages/pdf/practice_aids/guidance_appointment_educational_surrogate_parents.pdf)

DESE, Guidance on Appointment of Educational Surrogate Parents (Nov. 4, 2002), <http://www.doe.mass.edu/sped/2002/news/1104memo.html>