

surrogate, the State Superintendent shall appoint a parent surrogate if the Superintendent finds that:

(i) The child is eligible for the appointment of a parent surrogate in accordance with subsection (b) [or (c)] of this section; and

(ii) The proposed parent surrogate is qualified to represent the child in the educational decision making process in accordance with subsection [(e)] (D) of this section.

(2) If the State Superintendent finds that the child is not eligible for the appointment of a parent surrogate in accordance with subsection (b) [or (c)] of this section, the Superintendent shall notify the requesting public agency of this finding and specify the reasons in writing.

(3) If the State Superintendent finds that the proposed parent surrogate is not qualified to represent the child in the educational decision making process in accordance with subsection [(e)] (D) of this section, the Superintendent may:

(i) Request the public agency to propose another parent surrogate who is qualified; or

(ii) Select and appoint a parent surrogate who is qualified.

(4) The State Superintendent shall make a final selection or rejection of a parent surrogate within 10 days after it receives a request which includes appropriate eligibility documentation from a public agency.

[(g)] (F) (1) A child entrusted to a parent surrogate shall be represented by that parent surrogate in the educational decision making process.

(2) A parent surrogate is not liable to the child entrusted to that parent surrogate or to the parent of that child for any damages that result from acts or omissions of that parent surrogate constituting ordinary negligence.

(3) This immunity does not apply to liability covered by any applicable insurance, to the extent of that coverage, or to acts or omissions constituting gross, willful, or wanton negligence.

[(h)] (G) The State Board shall adopt rules and regulations in accordance with the Administrative Procedure Act on the qualifications, selection, appointment, training, compensation, removal, and replacement necessary to implement this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1991.

Approved April 30, 1991.