REPRESENTATIVE OF THE STUDENT

**"Parent"** means a biological or adoptive parent; a guardian; a person acting as in the place of a biological or adoptive parent (e.g., a grandparent or stepparent or other relative) with whom the student lives or a person who is legally responsible for the child’s welfare; a foster parent if the biological or adoptive parents’ authority to make educational decisions on the child’s behalf has been extinguished, and the foster parent has an ongoing, long-term parental relationship with the student and no conflicting interests; or a surrogate parent appointed by the school district. The term *does not* include a guardian who is an employee of the Commonwealth if the student is a ward of the state.

A **"person acting in the place of a parent"** is a relative of the student or a private individual allowed to act as the parent of a student by the parent or guardian. This includes a grandparent, neighbor, governess, friend, or private individual caring for the student. An agency is *not* allowed to serve as a "person acting as a parent".

**"Emancipated youth"** means:

1. a youth who has reached the age of majority, eighteen (18), and no evidence exists that there is a court order or legal document showing the parent as the guardian or youth's representative in educational matters; or
2. a youth who is married (regardless of age).

**No later than at the time of referral**, the ARC Chairperson reviews records to determine if a child is:

1. emancipated, and therefore represents him/herself in educational decision-making; or
2. represented by an adult, such as a biological or adoptive parent, a guardian, a person acting as a parent, a foster parent, or a surrogate parent.

# Biological or Adoptive Parents

Either parent, biological or adoptive, has parental rights unless there has been a judicial determination that limits or terminates their rights. Parents are considered available when a current residence or mailing address is identified by the ARC Chairperson.

If no parent is in residence, the ARC Chairperson obtains the name and address of either biological or adoptive parent, or any documents affecting the parent's legal status regarding educational decision-making including informal arrangements or the result of a State agency or court action.

# Legal Guardian

If the ARC Chairperson determines the child is represented by a legal guardian, the ARC Chairperson obtains a copy of the court order from the guardian establishing the legal guardianship. The ARC Chairperson places a copy of the court order in the educational record of the child.

# Person Acting As a Parent

If the ARC Chairperson determines there is no parent available and the person with whom the child resides is a family member, friend, or other person with whom the parent has made an informal arrangement to care for the child without state agency or court intervention, the ARC Chairperson determines this is a person "acting as a parent" and as such has all the rights of a parent until the parent reappears to reclaim his or her rights.

# Parent Assigned by State Agency or Court Action

If there is no parent available, and the person caring for the child is doing so as the result of State agency or court action, the ARC Chairperson requires this person to provide information regarding the legal status of the rights of the parent with respect to the child.

1. This person does not qualify as the educational representative unless the person is a private individual who can produce a court order that he or she has been granted guardianship of the child
2. Unless the person can produce a court order that he or she is a private (as opposed to state-appointed) guardian, such a person may not represent the child (e.g., sign permission or other due process forms) and absent written parental permission, is not allowed access to the educational records of the child.

# Commitment to Cabinet for Families and Children or Department of Juvenile Justice

If the child has been committed to the Cabinet for Families and Children or the Department of Juvenile Justice and parental rights have not been terminated, the ARC Chairperson involves the biological or adoptive parent in education decision-making and no surrogate parent is assigned.

If the ARC Chairperson determines that the child is a ward of the State (i.e., parental rights have been terminated by the court), the ARC Chairperson contacts the DoSE and obtains a copy of the court order verifying that the child is a ward of the State. The ARC Chairperson files the copy of the court order into the educational record of the child. The DoSE appoints a surrogate parent.

# Protective Custody

In instances that involve protective custody of the child, CFC may inform the ARC Chairperson that parents must not learn information regarding the whereabouts of their child. In such cases, the ARC Chairperson requires that the CFC representative provide a court order that prohibits parent involvement with the child. A copy of the order is filed in the child's records, and the DoSE appoints a surrogate because the child's parents are unavailable.

# Foster Parent

The ARC Chairperson verifies that the child resides in a foster home or is otherwise in custody of a State agency. If the child is placed with foster parents, the ARC Chairperson determines if parental rights have been terminated. If parental rights have not been terminated, the ARC Chairperson follows the procedures for **Biological or Adoptive Parents or Legal Guardian**. If no parent is known, their whereabouts cannot be determined, or parental rights have been terminated, the DoSE may assign the foster parent as a surrogate parent in accordance with procedures.

In the event parent’s rights have been terminated, the foster parent may act as parent without the need for appointment as surrogate parent under the following conditions:

1. the foster parent has an on-going, long-term parental relationship with the child;
2. the foster parent is willing to make the educational decisions required of parents under special education regulations; and
3. the foster parent has no interest that would conflict with the interests of the child.