

COMMONWEALTH OF MASSACHUSETTS

COUNTY, ss

JUVENILE COURT DEPARTMENT  
CITY DIVISION  
DOCKET NO.

\_\_\_\_\_  
IN RE: Care and Protection )  
of Child )  
 )  
 )  
\_\_\_\_\_)

MOTION TO APPOINT AN  
EDUCATIONAL SURROGATE  
PARENT

NOW COMES Child, the child in the above-referenced matter, and, through counsel, respectfully moves this court for an order appointing Child’s grandmother, XXXXX, to be Child’s educational surrogate parent pursuant to 20 U.S.C. § 1414(b)(2)(A). The reasons for the motion are as follows:

1. Child is eleven years old. He was born on [date].
2. On or about [date], a seventy-two hour hearing was held regarding the custody of Child and his two sisters, Sister 1 and Sister 2. The children’s mother, Mother, waived her right to a seventy-two hour hearing and the children were placed into the custody of the Department. The Department placed Child and his sisters in a foster home in Town on [date]. Child was enrolled in Town Middle School. Child experienced difficulties in school and in the foster home.
3. On [date], Child was referred for a special education evaluation. Child’s foster mother consented to the evaluation on his behalf and the Town Middle School began the evaluation. Shortly thereafter, Child’s foster parents asked that he be removed from the home. The Department placed Child in Town Shelter.
4. Town Middle School is willing to complete Child’s special education evaluation but there is no one with legal authority to sign Child’s Individualized Education Plan (IEP). See 20 U.S.C. § 1401(23) (definition of “parent” under the federal special education law).
5. If a child does not have a “parent” to exercise the rights under the federal special education law, an educational surrogate parent must be appointed. See 20 U.S.C. § 1414(b)(2)(A). Either the state department of education or the court may make the appointment. Id. A surrogate must be appointed no later than thirty days after a public agency (i.e., the school or DSS) has identified the need for one. 20 U.S.C. § 1414(b)(2)(B).

6. On [date], counsel for Child contacted the Educational Surrogate Parent Program at the Department of Education. Counsel was told that there were no volunteer surrogates available at this time.
7. XXXXX is Child's paternal grandmother. She has been visiting with Child approximately once a month since he was placed in the Department's custody. XXXXX is very interested in Child's well-being and education. She has offered to serve as Child's educational surrogate. On information and belief, XXXXX has no personal or professional interest that conflicts with Child's interests.
8. On information and belief, XXXXX has the necessary knowledge and skills to ensure that she can adequately represent Child. XXXXX raised four children of her own. One of her children received special education services in the past and XXXXX is familiar with the special education process.

For these reasons, Child respectfully requests the appointment of an educational surrogate parent.

Dated:

Respectfully submitted,  
**CHILD**  
By his attorney,

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Attorney, BBO No.  
Address  
Telephone Number

#### CERTIFICATE OF SERVICE

I, Attorney, hereby certify that I did serve one copy of the foregoing on all counsel of record by mailing the same to them.

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Attorney