

Educational Surrogate Parent Procedures and Guidelines

These guidelines should be followed if the child is not living with the biological or adoptive parents.

What is an educational surrogate parent?

An Educational Surrogate Parent means a person trained and appointed to represent a student with a disability in matters relating to the provision of a free appropriate public education, including the following:

1. Identification
2. Evaluation
3. Placement

Who needs an educational surrogate parent?

A student needs an educational surrogate parent if he/she does not have a parent/guardian who can participate in special education decision-making.

A parent/guardian is defined as one of the following:

1. Any biological or adoptive parent whose parental rights relating to making special education decisions have not been terminated or restricted by the court.
2. A guardian generally authorized to act as the student’s parent, or authorized to make special education decisions for the student, including a court-appointed temporary guardian.
3. A foster parent, unless the court has specifically assigned the rights to special education decision making to another person.
4. An individual with legal custody, or an individual acting in the place of a biological or adoptive parent, includes a grandparent, step-parent, or other relative, or other adult who accepts full legal responsibility for the student and with whom the student lives.
5. An educational surrogate parent who has been appointed by the district.
6. Any student of legal age, which is defined to mean a student who:
   1. Is eighteen (18) years of age; and
   2. Has not had a guardian appointed by a court.
7. Any student who has become eighteen (18) years of age and has had an educational representative appointed to make educational decisions on the student’s behalf.

If a court order identifies a specific person to act as the parent/guardian of a student; or make education decisions on behalf of a student, then that person is considered to be the parent/guardian for purposes of educational decision making.

If a person has been assigned as educational surrogate parent the assignment form must be in the student’s confidential file. If there is no form, contact Student Services to determine who is as designated educational surrogate parent. If a parent/guardian has completed a legal settlement form it does not mean this parent/guardian has been assigned the role as a surrogate parent.

A student is assigned an educational surrogate parent when the student is referred for an initial educational evaluation, or if the student has been identified as disabled and:

1. When a parent/guardian as defined above cannot be identified.
2. When, after reasonable efforts, the public agency cannot locate a parent/guardian.
3. When the student is a ward of the state under the laws of the state, unless as follows:
   1. The court order creating the ward-ship permits the student to remain in the home; or expressly reserves to a parent/guardian the authority to make decisions regarding the student’s education or upbringing.
   2. The student is a ward of the department of correction who has a parent/guardian.
4. When the student is a homeless student who is not in the physical custody of a parent/guardian.

For students meeting the criteria above, building personnel should:

1. Check the cumulative file to see if there is a court order establishing guardianship.
2. I f there is no guardianship paperwork, contact the Student Services/Special Education Department with the student’s name, as well as any information contained in the cumulative file regarding guardianship and/or legal custody.

When contacted, the Student Services Department will review the documentation of the student’s status regarding guardianship. This could include the request for custodial statement agreement-third party custody, guardianship order and/or custodial statement agreement-divorce, separation, or abandonment:

1. If the appropriate paperwork has been completed, the person who has been designated the responsible party for the student’s welfare will be authorized to assume the role of parent/guardian in special education matters.
2. If appropriate paperwork has not been completed, the director of special education will make a determination regarding who will be authorized to assume the role of parent/guardian in special education matters.
3. The building will receive notification of who is authorized as parent/guardian.

For students who are wards of the state/court, the educational surrogate parent may be appointed by the judge/magistrate providing that the educational surrogate parent:

1. Is not employed by the department of education, a public agency, or any other agency involved in the education and care of the student;
2. Has no personal or professional interest that conflicts with the interests of the student whom the educational surrogate parent represents;
3. Matches the student’s cultural and linguistic background to the extent possible; and
4. Has knowledge and skills that ensure adequate representation of the student.

For these students, the court order is reviewed to determine if the court has restricted the parent/guardian and/or foster parent’s rights to participation in special education decision making. If the rights have been restricted, the court order will be reviewed to determine whether or not the judge has assigned a specific person (i.e. court appointed special advocate (CASA), guardian Ad Litem). If the court order does not include who should be assigned, the CASA is contacted to discuss who would be the best person to assume this role.

For students who are homeless, who are not in the physical custody of a parent/guardian, any of the following appropriate staff may be appointed as temporary surrogate parents until a non-temporary educational surrogate parent can be appointed:

1. Emergency homeless shelters;
2. Transitional shelters;
3. Independent living programs; or
4. Street outreach programs.

Assignment procedure:

1. Contact the director of special education for all surrogate parent assignments.
2. When an educational surrogate parent is assigned, the special education teacher and building principal are notified.
3. The *educational surrogate parent appointment form* *(document 5.5)*  will be sent to the principal and should be filed in the confidential folder. Student Services special education secretary will mail the form letter to the surrogate parent.

Responsibilities of educational surrogate parents:

Educational surrogate parents represent the student in all aspects of the special education process, just like a biological parent. The teacher is to contact the educational surrogate parent to establish a line of communication. The educational surrogate parent has access to all educational records. Copies of individualized education plans (IEPs), progress reports, and report cards should be provided to the educational surrogate parents. Do not copy reports of psychological testing. The educational surrogate parent may receive a copy of psychological reports by contacting the Student Services Department.

Even though the parent/guardian rights may be restricted, we want to include them at the case conference, if appropriate. Also, it’s good practice to invite the foster parent and case manager to any and all conferences. The CASA would be the best person to advise you of the people who should be included in the conference. Contact the director of special education to discuss specific cases.