

# Educational Surrogate



# Training Manual

2008

Division of Special Education  
Tennessee Department of Education



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# Section One - General Information

## *Introduction*

This manual is designed to assist local school systems as they appoint and train surrogate parents as required by federal law. The Tennessee Department of Education, as required by the Individuals with Disabilities Education Act (IDEA), is responsible for ensuring that each local education agency has a system in place for local children in need of surrogate parents and to train and appoint qualified surrogate parents to them.

In addition, this publication will provide guidance for agency personnel who are responsible for assuring that the surrogate parent provisions of these regulations are followed. It will also provide guidance for identifying children who are eligible for the protections of the surrogate parent provision and for implementation of surrogate parent procedures at the local level. Program administrators will use this document to understand components for building a workable surrogate parent system at the local level that includes:

- how to identify children and verify their eligibility;
- how to identify and train surrogate parents
- how and when to recruit and train eligible surrogate parents who may serve as appointed surrogate parents;
- how to coordinate these efforts with other service providers for the benefit of all involved, especially the children; and
- how to get help in all these efforts.

This document is to be used as a resource manual to train surrogate parents and it offers detailed guidelines for program administrators who need to establish and maintain the structure for linking eligible children with surrogate parents.

## *The Legal Mandate for Surrogate Parents*

### Part B

Public Law 101-476 (IDEA) Implementing Regulations, 34 C.F.R.PARTS 300 & 301

34 C.F.R. §300.519 Surrogate Parents

**(a) General.** Each public agency must ensure that the rights of a child are protected when:

- No parent (as defined in §300.30)\* can be identified;

- The public agency, after reasonable efforts, cannot locate a parent; or
- The child is a ward of the State under the laws of the State of Tennessee.
- The child is an unaccompanied homeless youth as defined in section 725 (6) of the McKinney – Vento Homeless Assistance Act (42 U.S.C. 11434a(6)).

\* 34 C.F.R. 300.30 defines a parent as a biological or adoptive parent of a child; a foster parent; a guardian authorized to make educational decisions; an individual acting in the place of a biological parent including a grandparent, stepparent or other relative with whom the child lives; or a surrogate parent. In Tennessee, a foster parent may act as a parent if the biological or adoptive parent's authority to make educational decisions on the child's behalf has been terminated and the foster parent has an ongoing relationship with the child for more than one (1) year in duration and is willing to make the educational decisions required of parents and has no interest that would conflict with the interest of the child. Otherwise, a surrogate parent must be appointed for a child in foster care.

**(b) Duties of public agency.** The duties of a public agency under paragraph (a) of this section include the assignment of an individual to act as a surrogate for the child. This must include a method for:

- Determining whether a child needs a surrogate parent, and
  - For assigning a surrogate parent to the child.

**(c) Wards of the State.** In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate meets the requirements in paragraphs (d)(2)(i) and (e) of this section.

**(d) Criteria for selection of surrogate parents.**

1. The public agency may select a surrogate parent in accordance with Tennessee State Board of Education's rules and regulations.
2. Public agencies shall ensure that a person selected as a surrogate:
  - (i) Is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child;
  - (ii) has no personal or professional interest that conflicts with the interest of the child he or she represents; and
  - (iii) has knowledge and skills that ensure adequate representation of the child.

**(e) Non-employee requirement; compensation.**

1. A person otherwise qualified to be a surrogate parent under paragraphs d) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

**(f) Unaccompanied homeless youth.** In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to paragraph (d)(2)(i) of this section, until a surrogate parent can be appointed that meets all of the requirements of paragraph (d) of this section.

**(g) Surrogate Parent Responsibilities.** The surrogate parent may represent the child in all matters relating to:

1. The identification, evaluation, and educational placement of the child; and
2. The provision of FAPE (Free Appropriate Public Education) to the child.

**(h) SEA responsibility. The SEA must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.**

## *Frequently Asked Questions*

What is a surrogate parent?

All children with disabilities are entitled to a free and appropriate public education under state and federal special education laws. Included in these laws is a mandate for the parents of children with disabilities to have the opportunity to actively participate in the educational decision-making process. Unfortunately, some children with disabilities do not have parents who can fulfill this very important role, leaving their educational planning solely to representatives from their local school system or other agencies. Federal law, Individuals with Disabilities Education Act (IDEA), and state rules, regulations and minimum standards require that an individual must be appointed to make decisions regarding the education these children must receive.

A surrogate parent is a volunteer who is appointed by a local education agency, intermediate unit or the responsible early intervention agency, to assist children who do not have parents or family members. The surrogate parent has all of the rights, and can make all of the special education or early intervention decisions, that are usually made by the child's parents. Surrogate parents can review educational records; request and consent to evaluations and reevaluations; and challenge the recommendations of the education or early intervention agency by requesting informal and formal dispute resolution procedures. A surrogate parent does not have any rights and responsibilities for the child outside of the special education process.

### **What type of child requires a surrogate parent?**

A child with a disability requires a surrogate when:

- (1) the parent (as defined in § 300.519) or guardian can not be identified;
- (2) the LEA, after reasonable efforts, cannot discover the whereabouts of a parent;
- (3) the child is a ward of the State; or
- (4) the child is an unaccompanied homeless youth as defined in section 725 (6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)).

### **What are the responsibilities of a surrogate parent?**

The surrogate parent acts as a substitute parent and is given the responsibility of determining the child's educational experiences. A surrogate parent is not responsible for any financial costs or direct care of the child with disabilities.

The surrogate parent represents the child in every step of the education process including identification, evaluation and educational placement. The Surrogate Parent fulfills the parent role at all IEP Team meetings and works to ensure that the child receives FAPE.

A surrogate parent is also responsible for keeping confidential all information from the child's educational, medical, or social services records.

### **What are the criteria for selecting surrogate parents?**

- (1) the person selected is not an employee of the SEA (State Education Agency), the LEA, or any other agency that is involved in the education or care of the child;
- (2) the person selected has no personal or professional interest that conflicts with the interest of the child he or she represents;
- (3) the person selected has knowledge and skills that ensures adequate representation of the child.

*In addition to the above criteria, a Surrogate Parent should have the following:*

- have an interest in developing the potential of young people with disabilities
- understand that individuals with disabilities have the right to education programs that will instruct and support them to be as productive and independent as possible
- be willing to listen to the student, agency representatives, and school personnel and act in the best interest of the child.

Note: Natural parents retain their rights with regard to the education of their children unless those rights are expressly abdicated. Therefore, a surrogate parent should be appointed only in the limited circumstances permitted by the IDEA and its regulations.

### **What are the benefits to the surrogate parent?**

The Surrogate Parent will gain satisfaction and personal growth in knowing that they have helped a child with a disability benefit from an appropriate education.

**What are the benefits to the child with a disability?**

The child with a disability will have someone whose sole responsibility is to represent him/her in order to ensure that he receives a free appropriate public education in the least restrictive environment.

**When are the services of a surrogate parent terminated?**

Once the appointment is made, the child entrusted to the surrogate parent shall be represented by that person in the education decision-making process until:

- the child is no longer in need of or eligible for special education and related services;
- the natural or adoptive parent of the child assumes responsibility for representing the child in the decision-making process;
- a new guardian is appointed by a court; or
- a court orders termination of the authority of a surrogate parent..

The local education agency may terminate the appointment of a previously assigned surrogate parent if they determine that the person:

- is not able to perform the duties of a surrogate parent;
- the surrogate, upon sufficient notice to the local education agency, wishes to relinquish his or her responsibilities;
- has an interest that conflicts with the interest of the child entrusted to the surrogate parent;
- the surrogate has violated minimum standards of practice; or
- the well-being of the child is threatened.

The local education agency must be able to justify any termination through documentation of impropriety such as absence at mutually scheduled meetings, failure to learn about the child's needs, etc. Disagreement with recommendations or procedures should not be cause for removal. If the surrogate parent assigned by a local education agency feels that their assignment was unfairly discontinued, they could contact the State Department of Education, (Division of Special Education); to discuss their case.

**Why do we need surrogates?**

Parents of children with disabilities are important members of a decision making team, which decides the appropriate educational program for their child. Sometimes for various reasons there is no one to fill this important role. The Individuals with Disabilities Education Act (IDEA) requires that states train and provide educational surrogates, an impartial individual, to fill the role of a parent.

### **Who can be a surrogate?**

Any citizen of the United States or permanent resident who is 18 years old or older and has no conflict of interest concerning the child's education may serve as an educational surrogate and must be of *good moral character*. The educational surrogate must act in the best interest of the student he/she represents. Furthermore, an educational surrogate may not be an employee of a public agency providing care, custody or educational services to the specific child in need of educational surrogate representation.

### **How much time and money will this commitment take?**

Surrogate parents are required to devote approximately one day to the training provided by the local education agency, at least annually. After a student with disabilities is assigned, the educational surrogate reviews the student's school record well enough to understand the student's needs strengths, and interests as well as their school history. A meeting between the student and surrogate is arranged. After that, surrogates attend IEP meetings and parent-teacher conferences. This costs you nothing. Training is provided free of charge. All reasonable expenses may be reimbursed.

### **What do surrogates do on behalf of the student?**

Surrogates are expected to attend conferences and meetings concerning the educational program and placement of the student. Surrogates advocate for the student's educational rights.

### **Why can't the school or care facility take care of this responsibility?**

In the past, educational decisions about students with disabilities who did not have parental representation were made jointly by the school and the agency legally responsible for the student. There were two main problems with this: 1) neither party could be completely objective in representing the student's interests because of the necessity of balancing financial constraints with the student's needs; and 2) neither party could spend time learning all that was necessary about one student. A surrogate is not bound by either of these constraints.

### **How often should a surrogate visit the child's classroom?**

Surrogates may need to visit during the year in order to monitor how the child's educational program is working. Surrogates must follow the necessary steps to set up each visit by contacting the teacher or principal. (Check to see what the procedure is in each child's school.)

### **Can a surrogate be held liable for making a wrong decision about the child?**

A person appointed to act as a surrogate for a child in Tennessee public school is immune from any liability for any civil damages arising from any act or omission in representing the child in any decision related to the child's education. This immunity does not apply to intentional conduct, wanton and willful conduct or gross negligence.

### **Who will evaluate a surrogate's activities?**

The Department of Special Education at each local education agency is responsible for monitoring the activities of each surrogate to make sure he/she is doing his/her job. This can be through an evaluation form (see appendix). The local education agency will use this information to help decide whether or not to continue an assignment.

### **Can surrogates be required to share the costs of the student's education?**

No. All special education and related services must be provided at no cost to the educational surrogate of the student. The intent is that extra costs of providing an education for students with disabilities should not be borne by the student, parent, or guardian.

### **What kinds of records are parents and educational surrogates allowed to see?**

The Family Educational Rights and Privacy Act (FERPA) covers all "records, files, documents and other material which contain information directly relating to a student", and which are maintained by an educational agency, such as an elementary school, an office of a school district, or university. The type or location of the records does not matter--discipline folders, psychological reports, health files, and grade reports or other records found in a cumulative folder are all covered.

### **Are there any records that a school can refuse to show parents or an educational surrogate?**

Yes. A school can refuse to show you the following records:

- A teacher's or counselor's "personal notes"--these are notes that a school official makes for his or her own use.
- Personnel records of school employees.

### **May a surrogate read the child's educational record?**

Yes. There may be a counselor, teacher, or other school staff person in the room when the records are reviewed. If this person cannot answer your questions, ask the principal to find someone who can.

### **Who in school appoints surrogate parents?**

The school district should have established procedures to ensure the appointment of a surrogate parent, including the designation of a staff person responsible for appointing a surrogate parent. This task is usually performed by the Special Education Director and/or designee.

### **If child is not "a ward of the state," can a foster parent "act as parent" if natural parents do not want to participate?**

Foster parents, selected by an agency of the State of Tennessee as custodian for a child, who have had an eligible foster child for less than one calendar year, may be appointed by a local school system to serve as surrogate parents for their foster children provided that they have no conflict of interest and that the non-employee requirement does not apply to them.

Foster parents, selected by an agency of the State of Tennessee as custodian for a child, who have had an eligible foster child for more than one calendar year, are considered the parents for their foster children.

### **Who "represents" an 18-year-old with no legal guardian?**

Age 18 is the age of majority in the State of Tennessee and the right to make educational decisions transfers to the student. Unless a guardian has been appointed to represent the student, that student represents him or herself.

### **Student lives with an aunt or uncle: Who signs? What about parent gone for a week? Can the adult they are staying with sign?**

If the aunt and uncle are acting in the place of the parent (*in loco parentis*), they would sign. However, documented efforts must be made to involve parents. If the parent continues to make educational and other decisions for the student, the school should look to the parent.

### **The Surrogate Parent Mandate: When must a surrogate parent be appointed?**

A surrogate parent must be appointed whenever the birth parent cannot be found (this includes when parental rights have been terminated, or the public agency, after reasonable efforts, cannot locate a parent) - and there is no other person (such as a family member, another legally responsible adult or a foster parent who has an ongoing, long term parental relationship with the child) who can act on the child's behalf.

### **Are children who receive early intervention services entitled to surrogate parents?**

A surrogate parent must be appointed for any child with a disability, birth through 17, who has no parent or family member available. Contact the State Office of Early Childhood Special Education Programs for more information.

### **Can a surrogate parent be appointed for an "Uncooperative" parent?**

No. A surrogate parent cannot be appointed simply because a parent does not agree with the education system's proposal, or because the education or early intervention agency believes that the family is not cooperating. In these situations, the district must make, and document, every effort to involve the child's parent, and, when appropriate, can convene a special education impartial hearing to override a parent's refusal to cooperate or agree.

### **When a child is placed in foster care, is a surrogate parent needed?**

A surrogate parent should not routinely be appointed for every child in foster or other substitute care. A court decision to transfer temporary custody of a child to a children and youth agency does not take away the birth parents' right to make educational decisions on behalf of their child. Birth parents keep the right to make educational decisions unless a court has expressly extinguished that right through termination of parental rights or some other explicit order, or the birth parents cannot be located.

### **Are surrogate parents ever appointed for children without disabilities?**

The surrogate parent mandate applies **only** to children eligible for special education or early intervention services, and those who need an evaluation to determine if they have a disability.

### **Who can request or challenge the appointment of a surrogate parent?**

Anyone who believes that a child with a disability is in need of a surrogate parent can request that one be appointed for the child. If the education or early intervention agency refuses, anyone can file a complaint with the Tennessee State Department of Education, or request a due process hearing on behalf of the child, to ensure that a surrogate is appointed.

Under some circumstances, a birth parent may request that a surrogate parent be appointed for a child. This may be helpful when the parent lives a great distance from the child's educational placement, the parent is incarcerated or the parent is otherwise unavailable to participate in decisions affecting the child. The parent must agree to this appointment in writing, and can change his or her mind at any time. Even when a surrogate is appointed, the birth parent must still receive copies of appropriate notices.

### **Which students need surrogate parents?**

A child is in need of a surrogate parent when the child's parent, after diligent inquiry, remains unknown, or the child is a ward of the state or the court, or the whereabouts of a parent cannot be discovered, and when the child is diagnosed with a disability, or is suspected of having a disability. The school district is responsible for appointing an educational surrogate parent to act in place of the parent in the special education decision-making process.

### **How would "Reasonable Efforts" to locate the parents of a child be interpreted?**

Detailed documentation of all efforts to locate a student's parents is recommended when investigating the need for a surrogate parent. Reasonable efforts include attempts to locate parents through phone calls; letters, certified mail with a receipt and a visit to the last known residence of the parents. Because some people are hesitant or fearful of signing for a certified letter, a returned unsigned letter does not satisfy the "reasonable effort" clause. A visit to the last known residence of the parents should be conducted. The "reasonable effort" clause is intended to assure an active search for the parents of a student with a disability or a student suspected of having a disability. In situations where the parent disagrees with an agency's initial evaluation or placement intentions, the public agency may not circumvent the parent's due process rights by appointing a surrogate parent. It should be noted also that the IDEA does not allow assignment of a surrogate parent for a student whose parents, while residing with the student, or geographically available, is simply uncooperative.

### **Who pays the legal fees when the surrogate parent initiates due process proceedings against the local education agency?**

It is the responsibility of the local education agency to provide contact information to the surrogate parent of *pro bono* legal services, for example Legal Aide/Low Cost Attorneys. If the surrogate parent prevails, then the local education agency is responsible for the reimbursement of the surrogate parent's legal fees.

### **Who issues a 'Certificate of Completion' to the appointed surrogate parent after participating in training provided by the local education agency?**

The local education agency may issue a *certificate* to verify completion of educational surrogate parent training.

# Section Two - Parent Training

## *Training Surrogate Parents should include:*

- a. Exploration of the federal regulations requiring the appointment.
- b. Legal rights and responsibilities-Procedural safeguards
- c. Overview of IDEA
- d. Referral, evaluation/reevaluation process
- e. Developing an IEP - Roles and Responsibilities
- f. Confidentiality
- g. Parents/guardians and the law
- h. Children without parents or guardians
- i. Related issues and concerns

## **Surrogate Parent Guidelines** *What to do first after appointed?*

Many surrogate parents have asked for guidance as to what to do first when they receive notice that they have been appointed. Here are some suggestions for you to consider. This sequence is just a suggestion:

- (1) Find the names, addresses, and telephone numbers of the major people and agencies involved with the child you will be representing.
- (2) Call the school where the student currently attends. Introduce yourself, explain your role and make an appointment to review the student's entire school records. Find out who's in charge of special education and the names of the persons involved such as: special education teachers, regular teachers, guidance counselor, principal, and the supervisor/director of special education for the school system.
- (3) Call and introduce yourself to the student's "caretaker" (foster parent, group home supervisor, residential director, etc.)
- (4) Meet the student as soon as possible.

- (5) Read the student's school records. In addition to learning about the student's educational history, particularly read the current IEP.
- (6) Visit the student's educational program—both regular and special.

### ***Educational Records Review***

Every school system keeps “educational records” for their students. The records may contain:

- information identifying the student (name, address, birthday, etc.)
- special education forms with your signature
- evaluation results
- observation notes
- copies of Individualized Education Plans
- progress reports or report cards
- test results
- documentation of parent meetings
- correspondence from parents or outside evaluators, doctors, etc.
- minutes of meetings

In other words, a child's educational records should include all of the information that is used to make decisions about his special education services. These records do not include personal notes of teachers or other professionals **if those notes are used only to work with the child**. If the notes are used by the school to make a decision (for example, taken to the school-based committee as proof that a different type of program is needed), they then become part of the educational record.

### ***Surrogate Parents Have The Right To . . .***

- inspect and review any of the child's records. The school must agree to your request “in a reasonable period of time,” before an IEP meeting or hearing, and no longer than 45 days after your request.
- have someone at the school explain any item in the records.
- receive copies of the records. The school may charge a reasonable fee for the copies if the fee will not prevent you from copying the records.

- ask the school to change any statement in the child’s records, which you feel is wrong or misleading. The school must either change the statements in a reasonable period of time or must let you know, in writing, that they refuse to do so. They must inform you of your right to mediation and/or a due process hearing if they refuse to change the records.
- should review the child’s educational records and know what is in the files. If you have never looked at the educational records, use the Form #8 as a guide.

## ***Individualized Education Plan (IEP)*** ***An Outline for Surrogate Parents***

### **Introduction**

According to the Individuals with Disabilities Education Act (IDEA), our federal special education law, special education is “*specialty designed instruction, at no cost to parents or guardians to meet the unique needs of a child with a disability.*” This law was originally called P.L. 94-142 or Education of the Handicapped Act (EHA) and before the law was passed in 1975, most children with special needs were not being educated in local school systems.

Today, because of state and federal laws, children with disabilities are educated by local school systems in many types of programs including regular education classrooms (inclusion), resource rooms, self-contained classrooms, homebound and special schools. Special Education services should provide each child an appropriate education in the *least restrictive environment*. In other words, children with special needs should be educated in the same classrooms or schools as non-disabled students.

In addition, children receiving special education sometimes need extra help or services in order to learn. These are called *related services* and must be provided if the students need the service to benefit from special education. Speech therapy, physical therapy, occupational therapy, counseling, and transportation are examples of services that may be needed by special education students.

For a child to receive “special education and related services”, an Individualized Education Plan (IEP) must be provided.

### **IEP Training should include...**

- What is an IEP
- IEP Timelines
- Notification of the IEP Team meeting
- Participants at an IEP Team Meeting
- Contents of the IEP
- Modifications/accommodations
- Assessment

### **IEP Issues...**

There are many questions that need to be answered when writing goals and objectives on an IEP for a child with special needs. It is extremely important for surrogate parents to be a part of the child's educational planning by asking questions and understanding, but the process also requires some knowledge of the issues.

School systems should be prepared to explain the following:

- (1) Related Services
- (2) Inclusion / Least Restrictive Environment / Access to the General Curriculum
- (3) Vocational Services and Transition Planning
- (4) Assistive Technology
- (5) Functional Behavioral Assessment
- (6) Testing Modifications or Exemptions
- (7) Extended School Year Services

*Note: The Rights of Children with Disabilities and Parents Responsibilities may be used to provide parents with additional information regarding special education services.*

# **Section Three - Surrogate Parent Procedures**

The guidelines for providing surrogate parents for eligible special education students are as follows:

## ***Selection and Training of Surrogate Parents***

- a. The local education agency recruits surrogate parents (Surrogate Parent Application Form #9), and provides training in required special education topics, as needed.
- b. The State Department of Special Education in partnership with the local education agency issues a CERTIFICATE OF COMPLETION FOR EDUCATIONAL SURROGATE PARENT TRAINING to each participant who completes training.
- c. The local education agency's Department of Special Education maintains a current list of surrogate parents.

## ***Identification of Students in Need of a Surrogate Parent***

- a. The school identifies the student in need of a surrogate parent.
- b. In appropriate cases, the school obtains a copy of the court order and documentation of effective dates of custody.
- c. The school places a copy of the above documentation in the student's eligibility folder.
- d. The school (principal, teachers, caseworkers, etc.) notifies the special education coordinator/supervisor of the need for a surrogate parent prior to referral or as the need is verified for a student currently receiving services.

## ***Assignment of Surrogate Parent***

- a. The Special Education Supervisor/Designee reviews referral information and verifies the need for appointing a surrogate parent.
- b. The Director of Special Education or Designee adds the student's name to the SURROGATE PARENT ASSIGNMENT LIST.
- c. The Director of Special Education or Designee appoints a surrogate parent from the list of TRAINED SURROGATE PARENTS (Form #7).

- d. The selected applicant signs a letter of agreement with the local education agency.
- e. The local education agency's Special Education Department maintains a file of signed letters of agreement.
- f. The department notifies the school and the surrogate parent.
- g. The school places the copy of the completed form in the eligibility folder.

### ***Monitoring of Surrogate Parents***

- a. If a special education staff member has reason to believe the surrogate parent is not acting in the best interest of the student, or that a conflict of interest has developed, the staff member makes immediate written notification to the Director of Special Education.
- b. The Director of Special Education reviews the concerns and initiates appropriate corrective action where necessary.

### ***Performance Evaluation of Surrogate Parent***

- a. The performance of a surrogate parent should be reviewed on an annual basis by the local education agency to determine what or if additional training should be provided.
- b. The local education agency may wish to recognize educational surrogate parents at an appreciation luncheon or recognize their contributions in other ways.
- c. Surrogate parents should be considered and encouraged to participate in selected local education agency in-service/workshops, for example, "*Utilizing Positive Behavioral Supports for Children with Autism at Home and in the Classroom.*"

### ***Best Practice for Local Education Agencies: Additional Guidelines***

- (a) The public agency shall follow written procedures regarding the appointment of surrogate parents that include the following:
  - 1. How the public agency determines a student is in need of an educational surrogate parent.
  - 2. A system to identify and appoint educational surrogate parents.
  - 3. A system for training persons to serve as educational surrogate parents.

(b) The public agency shall insure the rights of a student are protected by appointing a surrogate parent under the following circumstances:

1. A parent cannot be identified.
2. The whereabouts of the parent are unknown.
3. After reasonable efforts, the public agency cannot locate the parent.
4. The student is a ward of the State under the laws of the State

(c) The public agency shall document that a person appointed as an educational surrogate parent:

1. is not employed by a public or private agency involved in the education or care of the student;
2. has no interest that conflicts with the interest of the student the surrogate parent represents; and
3. matches the student's cultural and linguistic background to the extent possible.

(d) A foster parent with whom a student has been placed by or through the Department of Human Services shall be considered the student's parent if one of the following conditions exist:

1. The foster parent has received surrogate parent training and the student has resided with the foster parent for at least one calendar year.
2. Read page 5, 300.30 defines a "*parent*" for additional explanation.

(e) A surrogate parent may represent the student in all matters relating to:

1. Identification.
2. Evaluation.
3. Educational placement.
4. Provision of a free appropriate public education.

(f) An educational surrogate parent's representation of a student includes, but is not limited to, the following:

1. Participating in case conferences, IEP (Individual Education Plan) meetings or other parent-teacher conferences.
2. Granting or denying written permission for evaluation, placement, or change of placement.
3. Accessing and reviewing the student's educational record.
4. Requesting mediation, a due process hearing, or filing a complaint.
5. Exercising any other educational rights a parent has in behalf of the student.

- (g) The public agency shall appoint an educational surrogate parent, if needed:
  - 1. At the time the student is referred for a pre-placement educational evaluation; or
  - 2. If the student is currently enrolled in special education, at any time the student is determined to be eligible for a surrogate parent.
- (h) An individual appointed as an educational surrogate parent shall not be liable for damages arising out of any civil action initiated as a result of the individual's discharge of this duty, nor shall an individual be considered an employee solely because the individual receives compensation for serving as a surrogate parent
- (i) The public agency may contract with another agency or organization to provide training and develop a pool of educational surrogate parents from which each agency may draw.
- (j) For a student in special education over eighteen (18) years of age who has not been adjudicated incompetent, the appointment of a surrogate parent shall be at the request of the student.
- (k) When a student in special education attends an educational program outside the school system and is in need of a surrogate parent, the school system where the student has established legal residence is responsible to insure an educational surrogate parent is appointed. The educational surrogate parent may be from the school system or from the geographic area where the educational program is located, as agreed upon by the administrators of both programs involved.
- (l) The public agency shall keep a list of educational surrogate parents from which it makes its appointments. The list shall include the qualifications of each surrogate parent and the number of appointments for each surrogate parent.

### **Determining Who Needs a Surrogate Parent During the Provision of Services**

One of the challenges of upholding the surrogate parent provision at the local level is tracking changes that affect a child's need for a surrogate parent. A change or suspected change in the child's status is most likely to be noticed by informed direct service providers who have been advised to be alert to that possibility. Primary referral sources staff, service coordinators, front line staff such as teachers of record, therapists, lead agency and school social workers, paraprofessionals, supervisors are examples of direct service providers who are in positions to have the earliest clues about such changes in a child. Such staff persons need to receive in-service training and written information on a regular periodic basis, such as at the beginning of each school year, about their responsibility to report a child's possible need for alternative representation by a trained foster parent or a volunteer surrogate parent. The form entitled "Request to Investigate Surrogate Parent Need" (Form #4 as mentioned earlier) can be adapted for use by the responsible agencies and explained and distributed to staff during in-service training.

# **Section Four - Forms & Letters**

## **Checklist for Recruiting, Training and Appointing Volunteers to Serve as Surrogate Parents**

**(Recruiting Checklist - Form #1)**

1. Identify need and number of children who meet surrogate parent eligibility criteria.
2. Initiate contact with individuals, agencies, service organizations, local newspaper and radio.
3. State your current specific needs for volunteer surrogate parents in terms of number needed, ages of children, and qualifications volunteers need to meet.
4. Distribute public service announcements and application forms to be circulated by others as appropriate.
5. Request responses verbally and in writing by a specific date.
6. Follow up with individuals, agencies and service organizations by the specified deadline and at regular intervals, encouraging them to continue efforts and referrals until recruitment needs are met.
7. Notify volunteers who meet qualifications to decide on potential date and time for training.
8. Contact local Division of Family and Children and local private foster care agencies to arrange for foster parents to participate in surrogate parent training.
9. Make training arrangements and notify participants.
10. Confirm arrangements with participants, in writing, at least one week before training.
11. Conduct surrogate parent training or arrange for training.
12. Verify training participation by using training attendance sheet as a sign-in sheet by participants.
13. Make surrogate parent appointments and update roster using Form #7.
14. Notify surrogate parents of their next responsibility on behalf of the child and proceed as appropriate.

**Public Service Announcement**

(Form #2)

**WANTED! WANTED! WANTED!**

**Would you like to make a difference in a child's life?**

**Must be caring and committed with time to share. Children who have disabilities are often in need of special education services. Some of these children have no parents and need a concerned volunteer who is willing to learn about their special needs. If you are an adult who is interested in helping represent a child's needs for services and develop plans with service providers to meet those needs in the absence of their parents, please contact your local special education department to let them know of your interest and willingness. You can make a difference; please call today.**

**In \_\_\_\_\_ County, the contact person is \_\_\_\_\_,**

**phone \_\_\_\_\_.** The Director of Special Education for the

\_\_\_\_\_ (district) is \_\_\_\_\_,

**phone \_\_\_\_\_.**

**Free training to be provided by \_\_\_\_\_ school district.**

**Policy Statement**  
(Form #3)

It is the policy of \_\_\_\_\_ (agency) to implement procedures to assure that the surrogate parent provision of IDEA. Completion of the following standardized forms serves as documentation that local surrogate parent procedures meet those regulatory requirements. They accurately reflect the status of each child found eligible for a surrogate parent and verify the qualifications of adults who serve as appointed surrogate parents.

**Sample Surrogate Parent Procedure**

The \_\_\_\_\_ school district in accordance with the

provisions as delineated under IDEA Part B ensures the rights of

\_\_\_\_\_ (child's name) are protected by appointing

\_\_\_\_\_ (adult's name) as a surrogate parent.

\_\_\_ 1. Both are of the same \_\_\_\_\_ (culture/language) background.

\_\_\_ 2. They are of different culture/language backgrounds. A person who is a closer cultural match is being sought. When located, such a person will be trained and appointed.

\_\_\_ 3. The child is currently receiving Special Education Services.

Date: \_\_\_\_\_

Signature-Agency Representation: \_\_\_\_\_

**Request to Investigate Surrogate Parent Need**  
(Form #4)

Please provide as much information as possible and forward this form to:  
\_\_\_\_\_ (appropriate staff person)

Child's name: \_\_\_\_\_

D.O.B.: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

County of residence: \_\_\_\_\_

Agency/Service Provider: \_\_\_\_\_

School: \_\_\_\_\_

Child Living With: \_\_\_\_\_ (name)

Relationship to child: (circle one)

1. Natural or adoptive parent
2. Legal guardian or court appointed temporary guardian
3. Adult who accepts full legal responsibility for the child and with whom the child is living
4. Foster parent.

Child's Present Caregiver

\_\_\_ has had surrogate parent training; is recognized as parent

\_\_\_ has not had surrogate parent training

5. \_\_\_\_\_ (Caregiver's Phone No.)

6. Other \_\_\_\_\_ (name and phone)

Address: \_\_\_\_\_

\_\_\_\_\_

Phone Number: (\_\_\_\_\_) \_\_\_\_\_

Child's Teacher of Record: \_\_\_\_\_

**Reason for Request:**

\_\_\_\_\_ **Parent Unknown**

\_\_\_\_\_ **Parent Deceased**

\_\_\_\_\_ **Parent Unavailable (Geographic Whereabouts Unknown)**

\_\_\_\_\_ **Guardianship with State Agency or Official**

\_\_\_\_\_ **Child is Ward of the State**

**Name of Person making this Referral:** \_\_\_\_\_

\_\_\_\_\_  
(Signature of Person Making Referral )

**Date:** \_\_\_\_\_

**Verification of Surrogate Parent Qualifications**

(Form #5)

Surrogate parent (Name) \_\_\_\_\_ has no potential for a conflict of interest with the interests of the child and is not an employee of any of the following agencies or organizations that have, or may soon have, responsibility for the child's care or the child's and/or family's services through Part B.

County: \_\_\_\_\_ County Division of Family and Children

District: \_\_\_\_\_ Special Education Planning District

Agency: \_\_\_\_\_ Responsible Part B Agency

Listing additional service providers below, as designated through the IEP, will assist you in verifying that the non-employee clause is not violated.

\_\_\_\_\_  
\_\_\_\_\_

(Adult's name) \_\_\_\_\_ was recruited through the following organization (check one):

\_\_\_\_\_ State Department of Special Education

\_\_\_\_\_ Local Service Organization

\_\_\_\_\_ Parent/Foster Parent of Another Child Who Receives Services

\_\_\_\_\_ Other: \_\_\_\_\_

This individual will not be considered an employee because the individual receives compensation for serving as a surrogate parent.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## **Verification of Surrogate Parent Training**

(Form #6)

(Volunteer/Foster Parent Name)

\_\_\_\_\_ participated

in Educational Surrogate Parent Training on (date) \_\_\_\_\_

provided by (local education agency) \_\_\_\_\_.

The following topics were covered during training:

- 1. Introduction to disabilities special education services;**
- 2. The regulations governing early intervention and special education;**
- 3. The rights and responsibilities of parents, surrogate parents, and the children they represent;**
- 4. Terminology used during the special education process;**
- 5. Procedures for evaluation IEP development, conferences with service providers, access to records, and confidentiality;**
- 6. Protections and procedural safeguards available to children with disabilities and parents/surrogate parents to ensure that the needs of the children are met;**
- 7. The range of programs and services available to children whose development is at risk, or who have disabilities; and the identification of key people within the local area.**
- 8. An overview of the Surrogate Parent Resource Manual provided to participants.**

This allows representation of the child in the following ways:

- a. granting or denying signed consent for evaluation, provision of services, or change of services;**
- b. participating in conferences with service providers to determine eligibility for services and for IEP development;**
- c. reviewing the child's records;**
- d. requesting mediation, a due process hearing, or filing a complaint; and**
- e. exercising any other rights a parent has on behalf of the child as they relate to the provision of early intervention or special education services.**

**Trained Surrogate Parent Roster**  
**(Form #7)**

Surrogate Name	Culture-Language Background	Date of Training	Date Verified as Surrogate Parent	Number of Children Appointed
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

**Record Review Checklist**  
(Form #8)

**CHILD:** \_\_\_\_\_

**SCHOOL:** \_\_\_\_\_

**AGE:** \_\_\_\_\_ **GRADE/PROGRAM:** \_\_\_\_\_

**DATE RECORDS REQUESTED:** \_\_\_\_\_

**DATE SCHOOL ANSWERED:** \_\_\_\_\_

**DATE OF RECORD REVIEW:** \_\_\_\_\_

**SCHOOL STAFF PRESENT:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**NUMBER OF FILES REVIEWED (AND NAMES):** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RECORD REVIEW**

\_\_\_\_\_ Is identifying data (names, ages, etc.) correct and up-to-date?

\_\_\_\_\_ Are evaluations current (no more than three years old)?

\_\_\_\_\_ Do the evaluations reflect strengths as well as weaknesses?

\_\_\_\_\_ Do the evaluations provide information for programming or do they simply give numerical scores?

**Do the records include?**

\_\_\_\_\_ psychological evaluations

\_\_\_\_\_ PT (Physical Therapy) evaluations

\_\_\_\_\_ OT (Occupational Therapy) evaluations

\_\_\_\_\_ Functional Behavior Assessment

\_\_\_\_\_ Speech/Language evaluations

\_\_\_\_\_ Academic achievement reports

\_\_\_\_\_ Standardized test results

\_\_\_\_\_ Current and past IEPs

\_\_\_\_\_ Medical records (if necessary)

\_\_\_\_\_ Behavioral evaluation/behavioral plan

\_\_\_\_\_ Vocational evaluation (interest, skills, aptitude)

\_\_\_\_\_ Transition plan

Other \_\_\_\_\_

PHOTOCOPIES REQUESTED \_\_\_\_\_

DATE RECEIVED \_\_\_\_\_

# **Surrogate Parent Application and Identification of Training Needs**

(Form #9)

Name: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Home Address: \_\_\_\_\_ Employer: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_ Employer Address:  
\_\_\_\_\_

Current Occupation: \_\_\_\_\_

Are you above the age of 18? \_\_\_\_\_ Yes \_\_\_\_\_ No

Knowledge of Special Education Services:  
\_\_\_\_\_  
\_\_\_\_\_

## **Do you have knowledge and skills in the following areas?**

Federal and State regulations governing students with disabilities and their families? \_\_\_\_\_ Yes \_\_\_\_\_ No

Special education service options? \_\_\_\_\_ Yes \_\_\_\_\_ No

The Individualized Education Plan (IEP) process? \_\_\_\_\_ Yes \_\_\_\_\_ No

Parental rights and responsibilities? \_\_\_\_\_ Yes \_\_\_\_\_ No

Legal/advocacy resources available to parents? \_\_\_\_\_ Yes \_\_\_\_\_ No

Knowledge of the child you will represent? \_\_\_\_\_ Yes \_\_\_\_\_ No

List any specific disabilities with which you are familiar \_\_\_\_\_  
\_\_\_\_\_

Have you ever represented a child in the identification, evaluation/assessment and placement process?

\_\_\_\_\_ Yes \_\_\_\_\_ No Please explain: \_\_\_\_\_

Are you an employee of the state or local agency involved in the provision of services to children?

\_\_\_\_ Yes \_\_\_\_ No If yes, list: \_\_\_\_\_

In matching a child with an appropriate surrogate parent, efforts are made to take into account the language and racial or cultural identity of the child and the prospective surrogate parent. Please indicate any relevant information about yourself to assist in this process.

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Please provide the names of individuals whom you have known for at least three years who could provide a reference for you related to this application.

(1) Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_ Occupation: \_\_\_\_\_

(2) Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_ Occupation: \_\_\_\_\_

---

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Print Full Name: \_\_\_\_\_

**For Office Use Only**

**Date Application Received:** \_\_\_\_\_

**Reviewed by:** \_\_\_\_\_

**Training Conducted by:** \_\_\_\_\_ **Date of Training:** \_\_\_\_\_

**Name of Child:** \_\_\_\_\_ **Date of Birth:** \_\_\_\_\_

# Surrogate Parent Responsibilities

(Form #10)

**Dear Parent,**

The office of special education within the \_\_\_\_\_ school district appointed you to serve as surrogate parent for:

---

Name of Child

As a surrogate you will be expected to:

1. Become acquainted with the eligible child, including his/her disability, his/her early intervention records and needs, and his/her cultural and language background;
2. Represent the child in all IEP meetings, and other meetings relating to the identification, evaluation, and placement services for the child;
3. Ensure the confidentiality of information and records concerning the child;
4. Be able to make sufficient time available to carry out the duties of a surrogate parent;
5. Have sufficient knowledge and skills to execute these responsibilities and to seek additional consultation and training as needed;
6. Maintain a file containing the child's records and a record of your activity as the surrogate parent. You will forward the file upon termination of your appointment as surrogate parent to the local education agency's special education office;
7. Notify the local special education office whenever you have reason to believe that a conflict of interest exists with respect to your appointment; and
8. Review the Surrogate Parent Training materials provided by the local education agency office.

Consultation to assist you in your duties is available from our special education office by contacting:

---

Name of Service Coordinator

---

Telephone Number

---

Address

**Surrogate Parent Appointment**  
(Form #11)

To: Surrogate Parent Appointments  
Division of Special Education Programs  
5<sup>th</sup> Floor, Andrew Johnson Tower  
710 James Robertson Parkway  
Nashville, TN 37243-0375  
(615) 741-0660 - telephone  
(615) 253-5567 - fax

From: \_\_\_\_\_ School District Office

Date: \_\_\_\_\_

\_\_\_\_\_ has been appointed for \_\_\_\_\_  
Surrogate parent child's name

\_\_\_\_\_ Birth date

Support for this appointment is confirmed with documentation maintained in our office of the following:

- Letter from DHS/DCS \_\_\_\_\_ Yes \_\_\_\_\_ No
- Telephone call made \_\_\_\_\_ Yes \_\_\_\_\_ No
- Correspondence sent to parents \_\_\_\_\_ Yes \_\_\_\_\_ No
- Contacted agency responsible for care of child \_\_\_\_\_ Yes \_\_\_\_\_ No
- Contacted known relatives/other interested persons \_\_\_\_\_ Yes \_\_\_\_\_ No
- Other (explain) \_\_\_\_\_

Training was provided by \_\_\_\_\_ on \_\_\_\_\_  
Trainer Date

The surrogate parent has no interest that conflicts with the interest of this child and meets all other parent qualifications.

Surrogate Parent Signature \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor Signature \_\_\_\_\_ Date: \_\_\_\_\_

Reviewed by (State Department Representative)

\_\_\_\_\_ Date: \_\_\_\_\_

## **Sample Letter**

**(Form #12)**

Dear Surrogate Parent:

We would like to take this opportunity to thank you for sharing your time, energy, and expertise with us. We are grateful that you made this commitment to serve as a surrogate parent and to actively participate in the development and implementation of the child's special education program.

You have been appointed by the \_\_\_\_\_ school district to act as a parent of a child throughout the early intervention decision-making process. While you may not provide the day-to-day care for the child or assume the financial responsibilities associated with the care of the child, your role is a very important one and is greatly valued.

Along with your local special education office, the State Department of Special Education is available to assist you if you have any questions.

Sincerely,

Special Education Supervisor