

Training for Surrogate Parents



PACER CENTER 
CHAMPIONS FOR CHILDREN WITH DISABILITIES®

pacer.org

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Introduction

Since the founding of our nation, free public education for citizens has been recognized as an important right. Children with disabilities have been included only since 1975 when Congress passed the Education for All Handicapped Children Act. This law was most recently reauthorized in 2004 as the Individuals with Disabilities Education Act (IDEA) (<http://idea.ed.gov>).

The passage of IDEA gave parents of children with disabilities an active role in planning their children's educational programs, monitoring progress, and challenging inappropriate decisions. Though the child advocate role is usually filled by parents, the laws allow for a surrogate parent if the parents or other family members of a child with a disability are unknown or completely unavailable, or if the child is a ward of the state. Note that sometimes a foster parent may serve as the parent; in this case, no surrogate need be appointed.

Individuals who serve as surrogate parents fulfill an important role in the life of a child with a disability. Surrogates have become increasingly important in special education because a growing number of children are living outside their family for some period of their lives. Like parents, surrogates of children with disabilities are granted a significant decision-making role and are involved at every step of the special education process, including:

- *Identification* that the child may have a disability;
- *Evaluation* to see if the child has a disability and is eligible for special education services;
- *Placement* in an appropriate special education program for eligible children; and
- *The provision of a free, appropriate, public education* (FAPE) for the eligible child.

The absence of a parent can deny a child's access to appropriate identification, evaluation, placement and provision of FAPE.

Surrogate parent laws and guidelines

Children who need surrogate parents

Students who either already receive special education services or who are thought to need such services are entitled to a free, appropriate public education and may be served by surrogate parents. In Minnesota, this includes students from birth to age 18.

Surrogate parents are appointed under three conditions:

- The parent is unknown or unavailable
- The student is a ward of the state
- The parent requests a surrogate parent in writing*

**Parents are not usually aware of their right to request a surrogate parent. When a potential situation arises, the parents should be notified of their right to request a surrogate parent. They should also be informed regarding the rights and responsibilities that the surrogate would assume in this role.*

Go to page 17 for Minnesota Rule 3525.2440.

What is a surrogate parent?

A surrogate parent is a person appointed by a school district or court to represent a child with a disability who has or may need special education services. This

person must not be receiving public funds to educate or care for the child. However, a foster parent for a child who is a ward of the state may be considered to be the parent. In this case, no surrogate would need to be appointed.

In some cases a grandmother or other family member of a student is “acting as parent” or serving in the parental role. Surrogate rules do not apply in these cases since the child is not in need of a surrogate parent.

Go to page 16 for federal law provisions in IDEA 2004.

Responsibilities of surrogate parents

A surrogate parent is only responsible for representing the child when decisions about their special education program are made concerning:

- Identification of the need for the child to receive special education services
- Evaluation to determine their individual needs
- Design of their individualized education program (IEP), including placement
- Ongoing reviews of educational progress
- Agreement or disagreement with the school's educational proposals

In order to fulfill these responsibilities, the surrogate parent should learn about state and federal requirements for special education and about school district structure and procedures. The surrogate parent should also have an understanding of the pupil's disability and needs and have an ability to effectively advocate for the child.

Go to page 18 for Minnesota Rule 3525.2455.

Although not a legal requirement, it may be best if the surrogate parent and child share a similar background, such as race or culture.

Some other qualities of an effective surrogate parent are:

- A commitment to learning about the child's educational needs and special education
- The ability to communicate constructively and effectively with school personnel

Responsibilities:

Surrogate—Carry out the surrogate parent role and represent the student

School District—See that the surrogate parent carries out the role

School Board—Remove the appointment of the surrogate parent if role is not carried out

A surrogate parent appointed by a school district may only be removed by the school board.

Go to page 17 for Minnesota Rule 3525.2450.

Summary of surrogate parents and special education

- All children in special education have a right to a free, appropriate public education.
- Children who do not have parents or family available must be assigned a surrogate parent.
- A surrogate parent is a person appointed by a school district or court to represent the child in special education decisions.
- A surrogate parent has the same rights and responsibilities that parents and guardians have in the special education decision-making process.
- The surrogate parent must not be receiving public funds to educate or care for the child. Payments for foster care are permitted.

How to learn the surrogate parent role

Here are a few simple guidelines to obtain needed information to plan effectively for the child. If you do not know the child you have been appointed to represent, you may need to take some time learning about the child and their educational history.

Learn about the child:

It may be helpful for the surrogate parent to:

- Spend time observing the child at school
- See the child in the home environment
- Review the child's school records
- Talk to the child's county case manager if they have one

Questions can be the surrogate parent's most powerful tool in learning about the child. The following questions can help the surrogate parent better understand the child's unique needs:

How does the child learn?

- By watching?
- By hearing?
- In a group? Alone?
- Does the child use assistive technology?

What does the child like or dislike about school?

- What is the child's favorite part of the school day? Favorite academic subject? Least favorite subject?

- Does the child have friends at school?
- What are the child's general feelings about school?

What are the child's special interests or hobbies?

- What does the child enjoy doing?
- Does the child like to play games alone or with others?
- Does the child like group sports?

What are the child's attitudes about and relationships with other people?

- With close adults such as foster parents? Relatives? Other adults?
- With other children? Peers?
- Does the child play alone? With adults? With other children?
- Which school staff does the child get along best with?

What are the child's strengths or special skills?

What rewards motivate the child?

- Verbal praise?
- Material things (food, toys, etc.)?

Is the child afraid of anything? If so, of what?

What kind of living skills and adaptive behavior does the child exhibit?

- Independent or dependent upon adults?
- Age-appropriate everyday functioning?

What is the child's developmental history?

- Age of walking? Age of talking?
- Does the child compensate for the disability? When did this begin? (For example, at what age did a child who is deaf begin using sign language? When did the child with a physical disability begin using a wheelchair?)

What is the child's medical history?

- Is there a history of medical problems affecting education?
- Is the child currently taking any medication?
- What medications have not worked in the past?

Once you've formed some questions, gather information in the following ways:

- Meet the child, visit the child's home if possible, or visit the child's school.
- If the child is young or has cognitive limitations, present yourself as a friend since the surrogate parent term may be confusing to the child.
- If the child is a ward of the state, talk with the child's county case manager about their educational history.
- Review the child's special education records. Ask the school to make copies of school records for you.

- Visit the class to observe the child and later talk with the teachers. Follow school procedures to make an appointment for the observation.
- Make certain that teachers, therapists, supervisors, and other professionals involved with the child know that you are acting as the child's surrogate parent (as well as being their foster parent, if this is the case).
- Fill out a "Student Profile Sheet" on the child (see page 15).
- Keep a record and file of all written and verbal contact you have with the school.
- Ask questions about anything you do not understand.

Learn about the disability

The surrogate parent will also need to learn about the child's disability area(s). Contact PACER to learn more at (952) 838-9000 or pacer.org.

Keeping confidentiality

Surrogate parents have access to the child's school records that will contain confidential information. They also will receive confidential information while talking with teachers and county social workers. It is required to use this information with care and discretion and respect the privacy of the child.

The Special education process

Overview of special education

Surrogate parents are appointed to assure that the child's rights are protected. The surrogate parent will need to know how the special education process works and what rights the child and surrogate parent have.

The process

For information about the special education process and the Individualized Education Program (IEP), visit pacer.org.

Two books that help parents understand both the principles of special education and the procedures for writing the educational program for a child with a disability are available online from PACER: “[Parents Can Be the Key](#)” and “[A Guide for Minnesota Parents to the Individualized Education Program \(IEP\)](#)”.

Remember that the word “parent” means surrogate parent too. By law, surrogate parent rights in the special education process are the same as those of natural and adoptive parents.

A surrogate parent assigned to a certain child may need more specialized information about early intervention, transition, emotional and behavioral disorders, and other special topics.

Early intervention services in Minnesota

Children ages birth to 3 who are eligible for special education are served under an Individualized Family Service Plan (IFSP). The IFSP plan and process focuses on identifying the needs of the child and family and determining how to best meet the needs. The law recognizes the importance of the family in the lives of young children and emphasizes that the IFSP plan and process is focused on and directed by the family. The IFSP process is to be comprehensive and coordinated and should include all disciplines and agencies involved in the child's education.

If a surrogate parent is appointed for a child who is or may be eligible under the early intervention system, the surrogate parent can learn more about this system through PACER's book “[Families Are Important](#)”.

Transition from school to adult life

Growing up is not easy! It is even more complicated for youth with disabilities. The special education transition process is the planned movement from school to adult life. Minnesota law requires transition planning to begin during ninth grade. It continues until the student receives their high school diploma, no longer has special education needs, or ages out of the special education system (turns 22 years old). Broadly defined, transition is a process that focuses on postsecondary education and training, and improving a student's employment

outcomes, housing options, and social networks after leaving school. The transition areas are:

- Employment
- Postsecondary education and training
- Independent living (where appropriate may include recreation and leisure, community participation, and home living)

The transition plan provides the framework for identifying, planning, and carrying out activities that will help a student make a successful transition to adult life. It identifies what skills need to be learned, when or where transition services are provided, and who will provide them.

If a surrogate parent is appointed for a child who is in the ninth grade or above, the surrogate parent can learn more about transition by contacting PACER to at (952) 838-9000 or pacer.org.

Special factors

The special education law IDEA says that the IEP team must consider the following special considerations or factors when developing an IEP for a child with a disability:

- Behavior
- Limited English proficiency
- Vision impairment
- Communication needs
- Language and communication needs of deaf or hard of hearing students
- Assistive technology

For more information on each of these special factors, watch “[Six Areas that May Affect IEP Services for Your Child](#)”. If a surrogate parent is appointed for a child who has emotional or behavioral concerns, the surrogate parent can learn more by contacting PACER at (952) 838-9000 or online at pacer.org.

Structure of special education in Minnesota

In Minnesota, special education programs for students with disabilities are provided primarily by school districts (public schools). Sometimes a single school district—usually in highly populated areas—provides services, including the entire range of programs and services for students with disabilities, to all children within its boundaries.

Sometimes school districts combine with other local school districts to form special education cooperatives. The districts—usually adjoining or within the same county or region—may join to provide special education services to students with disabilities within their combined boundaries. A cooperative may have a single administrative office with teaching personnel hired by that office. Minnesota has three intermediate school districts which operate similar to cooperatives. Charter schools also are required to provide special education services to eligible children.

For incarcerated youth, the Department of Corrections is responsible for the education of students placed in juvenile correctional facilities at Red Wing and Togo.

Regardless how the special education programs of a school district are organized, in most cases, one person called the special education director is in charge of coordinating all special education services. The director is often responsible for the appointment of surrogate parents or assigns the responsibility to another staff person.

Communication in the special education process

IEP and IFSP meetings and other school meetings are crucial parts of a child’s educational program. A surrogate parent’s responsibility extends beyond giving

consent and accepting explanations. Asking questions, bringing up issues to discuss, gathering information, and clarifying points are all part of the surrogate parent's role.

Effective communication is two-way, generating understanding and support the professionals and the surrogate parent need to make effective decisions about the child's educational program. Read PACER's helpful booklet, "[Working Together: A Parent's Guide to Parent and Professional Partnership and Communication Within Special Education](#)".

The key to effective communication is preparation and willingness to be actively involved in planning the child's educational program. To foster meaningful communication, the surrogate parent can:

- Make sure the focus stays on the child.
- Be prepared by knowing in advance the important points to discuss and questions to ask. Then write down the points and questions and check them off as they are addressed.
- Listen. Listening helps gather information about the child and understanding of other viewpoints.
- State issues clearly. It is important to communicate in an honest and clear manner.
- Ask questions. This can be an effective way of clarifying a point and keeping the lines of communication open.
- Direct comments and questions to the person who can best address or answer them.
- Restate concerns if not heard the first time.
- Be confident. A surrogate parent never has to feel guilty or embarrassed asking questions or assertively pursuing the appropriate services for the child. That is their role and their right.
- Work together. Neither the surrogate parent nor the professionals have all the answers. Working together as a team encourages finding solutions. Everyone at the meeting has the same goal – to provide an appropriate educational program for the child.

Preparing for a school meeting

The surrogate parent's most important goal is helping to develop an appropriate educational program for the child. They must be prepared to work cooperatively with the professionals involved with the child's program.

To prepare, surrogate parents can:

- Know their rights and be prepared to participate actively.
- Request a copy of the child's most recent educational evaluation and review the results. The evaluation should be current and complete and the results explained so everyone understands the educational implications.
- Review the child's last IEP or IFSP to prepare for developing their next one. Review the last progress report on the child's goals or objectives.
- Think of a plan for regular communication with the school and keeping the child's county case manager informed.
- Make an appointment to visit the child's classroom. Observing the child in the classroom accomplishes two important functions: 1) seeing how the child performs and is progressing in the classroom, and 2) establishing rapport with the teacher.
- Visit the child's home or facility if the child does not live with the surrogate parent to learn how the child functions at home.
- Talk with professionals who work with the child. They can offer a wealth of information about the child's progress and personality.
- Talk to the child if possible. Although a child can provide invaluable personal information and perspectives, some children cannot communicate well.
- Complete the "student profile" and jot down any notes that may be important for everyone to know about the child. A surrogate can share aspects of the child's life such as interests, hobbies, relationships to others, behavior at home, and difficulties.

- Bring notes on the child's needs, strengths, and realistic expectations of progress for the year.
- Before the meeting, the surrogate parent can write down questions for discussion that may be important for coming to a decision about the child's program.
- Find out who will attend the meeting. The surrogate can also decide if it is necessary to bring a person from outside the school to the meeting. The surrogate should notify the school when inviting another person to attend. If the child has a social worker, it is a good idea to invite that person to the meeting.
- Explore other proposed programs that may be appropriate for the child.

These points are a framework for a surrogate parent's informed participation in the child's educational program. Adequate preparation may seem time-consuming, but it is worthwhile. The surrogate parent will then have the confidence to advocate for the student at meetings.

The surrogate parent has the same rights and responsibilities as any other parent and is a very important member of the team.

There are many resources available for surrogate parents. Attending local parent special education advisory committee (SEAC) meetings or contacting various organizations that hold workshops on specific topics can lead the surrogate to other parents and professionals who can offer advice and support.

Resolving differences with the school

Participants want IEP or IFSP meetings to result in mutual agreement about an appropriate educational program for the child. However, this doesn't always happen. When differences arise, the surrogate parent can:

- Discuss concerns with the child's IEP or IFSP case manager.

- Request another meeting to discuss specific issues and concerns.
- Request help from an advocate.
- Consider requesting a conciliation conference, mediation, or an alternate form of dispute resolution.
- File a complaint with Minnesota's Department of Education Division of Compliance and Assistance if it appears that the school is not complying with special education laws.
- Explore other school programs or placements if necessary.
- Consider initiating due process procedures if the above methods don't work and the situation is appropriate.

For assistance or information about the dispute resolution methods mentioned above, contact PACER Center at pacer@pacer.org or (952) 838-9000.

Tips for resolving conflicts:

- Put requests in writing and ask for a written response.
- Keep written records of communication with the school.
- Clarify issues and priorities related to points of agreement and disagreement.
- Define possible solutions.

Additional information

Questions and answers

Becoming a surrogate parent

Q: How do I get started if I want to become a surrogate parent?

A: If you wish to be considered for a surrogate parent appointment, you should contact the special education director of the school district or districts in which you want to serve. Note that one director may serve more than one school district or charter school.

Q: How can a volunteer surrogate parent gain the confidence needed to participate fully in planning the child's educational program?

A: Many volunteers enjoy the important role of working on behalf of a child. The first step is to gather information on how to be a surrogate parent. Using this online training is one way to learn your rights and responsibilities. The next step is taking the time to become acquainted with the child and their educational background. By following the suggestions in this training, talking with professionals and other parents, and reading about the child's educational background, a volunteer can gain the confidence that comes through knowing. As time goes on and your experience and your knowledge increase, so will your confidence.

Q: Why can't staff member of the school, county, or the care facility where the child lives be responsible for representing the child on educational matters?

A: There are a number of reasons, including:

- Both school and agency may have restrictions that conflict with meeting the child's individual needs.
- Neither the school nor the agency can act as a totally neutral party to advocate without conflict of interest.

Q: What is the role of the county social worker:

A: The county social worker can provide essential advice and support. They may facilitate the transfer of records from one school to another and make sure the school district has in place a parent as defined by IDEA, which may be a surrogate parent. If the caseworker wishes to attend educational meetings, they should ask the parent for permission. The parent may invite person with "knowledge or special expertise regarding the child" (IDEA) such as the caseworker.

Q: How much does a surrogate parent need to know about the child's disability and where can this information be found?

A: To be an effective surrogate parent, it is helpful to acquire some information about the child's disability.

The child's teacher, many state and national disability organizations, and the local library may have helpful information.

Foster children

Q: Do all foster children need surrogate parents?

A: No. Only when the natural or adoptive parents' authority to make educational decisions on the child's behalf has been extinguished under state law, might a foster child need representation by a foster or surrogate parent at school. When parental rights are terminated, the child is a "ward of the state". Long term foster parents may be considered the "parent", so in this case, no surrogate need be appointed.

Q: What is the difference between a surrogate parent and a foster parent?

A: Sometimes the foster parent is considered to be the "parent". If the foster parent meets all of the requirements of the definition of parent under IDEA, the foster parent is the parent and no surrogate need be appointed. Go to page 16 for federal law provisions in IDEA 2004. Sometimes, however, a child in need of a surrogate parent will have both a foster parent and a surrogate parent. When the requirements of "parent" are not met by a foster parent, the school district can appoint the foster parent as the surrogate parent or appoint someone else. The foster parent is often the most logical choice. Whoever the school district appoints has the right to make special education decisions for the child. The foster parent would have all other rights granted to them by the placing agency.

Assignment

Q: Do surrogate parents have a choice in the selection of the child?

A: Yes. For example, surrogates may request assignment to a child with a certain disability or in a certain age group.

Q: Can a surrogate parent be assigned to represent a student over the age of 18?

A: In Minnesota, students ages 18 through 21 are viewed as serving as their own parents. Therefore, if the student is able to make their own decisions, a surrogate would not be necessary. Sometimes students over 18 are under legal guardianship. In this case, the guardian is the parent as identified by IDEA.

Q: Are a surrogate parent's activities evaluated?

A: Schools are responsible for monitoring the activities of each surrogate parent to make sure that they are fulfilling the duties as set forth by state and federal rules.

Q: What happens if a surrogate is trained but the school does not assign a child to the surrogate parent?

A: There are several reasons why a surrogate may not be immediately assigned a child. No child may currently be in need of a surrogate parent or more volunteers may be available than needed. The surrogate should let the school know of continued interest, even if not assigned right away. If the surrogate wonders if there is a specific reason why they were not assigned a child, they should contact the person in charge of surrogate appointments or the Minnesota Department of Education Division Compliance and Assistance at 651-582-8689 to discuss the concerns.

Q: If the child no longer needs a surrogate parent, can a surrogate be reassigned?

A: Yes. The surrogate can write or call the person in charge of surrogate parent appointments in the school district or special education cooperative to request an appointment to represent another child.

Q: Can a surrogate parent resign?

A: Yes. A surrogate parent wishing to resign can contact the person in charge of surrogate parent appointments within the school district or special education cooperative and discuss the decision. All copies of record must be returned.

Q: Why might a school terminate a surrogate parent appointment?

A: The surrogate should be informed about the reason for termination and has the right to be heard at a school board meeting to appeal the termination. A complaint can also be filed with the Division of Compliance and Assistance if the termination appears to be inappropriate. There are several reasons why the school should discontinue an assignment, such as:

- The child changes school districts because of a change in living arrangement or residential needs.
- An “unavailable parent” becomes available again.
- The child reaches the age of 18 and no longer needs a surrogate parent.
- The child no longer receives special education services.
- The school thinks the surrogate parent has not fulfilled the responsibilities of a surrogate parent.

After being appointed as a surrogate

Q: After the appointment, where can a surrogate parent obtain answers to special education questions?

A: First, contact the child’s special education teacher, principal or other school person who works with the child. Other sources of information are PACER Center, Minnesota’s statewide parent training and information center; other parents of children with disabilities; and disability support groups. Contact surrogate@pacer.org to ask PACER staff a question about surrogate parenting.

Q: Can surrogate parents receive a stipend?

A: There is no requirement in Minnesota that a surrogate parent receive compensation; however, the school may choose to cover or offer payment for the expenses, such as mileage, of the surrogate parent.

Q: Can a surrogate be held liable for making a wrong decision?

A: In Minnesota there is no legislation that specifically protects any parent, including surrogate parents, from being held liable.

Educational rights

Q: Do surrogate parents have rights to the child’s educational records?

A: Yes. Surrogate parents have all the rights guaranteed to parents under special education laws and the Family Educational Rights and Privacy Act (FERPA). Surrogate parents can see, correct, obtain copies of, and approve or disapprove the right of others to see the child’s educational records. If an agency other than the school has records that the surrogate parent thinks are relevant to special education planning, the surrogate would call that agency to discuss release of record to the school for educational planning.

Q: How often can a surrogate observe the child in their classroom?

A: The surrogate parent is expected to follow the same rules set out in the school policy for all parents. Check with the school about the procedures for visiting the classroom by contacting the teacher or principal. Make separate arrangement with any of the school’s other staff who may be servicing your child. A surrogate parent may visit the child’s classroom to get to know the child and begin a profile of their needs and abilities as well as to monitor how the program is working. Do not interrupt the teacher while you are observing.

Special education and the IEP

Q: How can a volunteer surrogate parent gain the confidence needed to participate fully in planning the child’s education program?

A: Many volunteers enjoy the important role of working on behalf of a child. The first step is to gather information on how to be a surrogate parent. Using this online training is one way to learn your rights and responsibilities. The next step is taking the time to become acquainted with the child and their educational background. By following the suggestions in this training, talking with professionals and other parents, and reading about the child’s educational background, a volunteer can gain the confidence that comes through

knowing. As time goes on and your experience and your knowledge increase, so will your confidence.

Q: What if the surrogate parent does not understand what is written in the child's IEP or IFSP?

A: If there is special education terminology or language that the surrogate parent does not understand, it is the responsibility of the surrogate parent to ask questions of school staff involved or contact PACER Center.

Q: What happens if the surrogate parent requests a particular service for the child that the school says they cannot provide because of lack of money?

A: Money cannot be used as a reason for not providing appropriate and needed services. If the IEP or IFSP team determines a service is necessary to meet the needs of a child, the team can look at alternative ways to provide the service. Does a neighboring school district or agency in the community have the services? Whatever the team decides to do should be put in writing. The surrogate parent can monitor the progress to prevent undue delay in the provision of a needed service. Whenever the school district refuses a parent's or surrogate's request, the school must document their reasons for refusing on the "Prior Written Notice" form.

Q: What if the school will not listen to the surrogate parent's concerns about the child's educational needs?

A: School staff should respect your role of parent on behalf of the child. The first step is always reasonable discussion with school personnel, beginning with the IEP or IFSP case manager. The surrogate parent can also contact an advocacy organization such as PACER for assistance in resolving concerns and understanding what steps could be taken.

Q: Can the child receive special education services if the child's surrogate parent refuses to sign the IEP?

A: The answer depends on whether the services will be for the first time or if the child is already receiving services. The school cannot place the child into special educa-

tion program for the first time without the consent of the surrogate. If it is not an initial placement, the school can make proposed changes and will proceed unless the surrogate parent objects in writing within 14 calendar days of being sent the proposal.

Q: What should a surrogate parent sign or not sign?

A: Surrogate parents will be asked to sign all the forms relating to the child's special education, including permission to evaluate and the IEP or IFSP. Consent should not be given to any proposal that seems inappropriate for the child's needs. See "Resolving differences with the school" section in this document for assistance. Permission for all other types of activities is given by the child's county caseworker, residential care provider, or other person responsible for their care.

Involvement outside of school

Q: Can a surrogate become more involved with the child beyond participating in their school program?

A: Some volunteer surrogate parents choose to become more involved by visiting the child at home to get to know the child better. This decision is made jointly between the surrogate and persons where the child is living. The surrogate can be effective even if not involved outside the area of special education.

Q: As a volunteer, what is the surrogate parent's role at the child's place of residence?

A: The surrogate only has the authority to make decisions about the child's special education needs. However, it is important to talk to other people involved with the child, especially in their home environment, in order to get a complete picture of the child's needs. Make sure the social workers and others involved in caring for the child understand the surrogate's role to gain their cooperation in securing information necessary to help in making decisions about the child's special educational program.

Student profile sheet

Child's name _____ Birth date _____

School _____ Phone _____

Teacher _____ Grade _____

1. What my child is interested in:

2. Things my child needs to learn:

3. My child's strengths are:

4. My child needs help with:

5. Help my child has received in the past: What worked? What didn't?

The laws: Federal

IDEA Regulation 300.30 Definition of Parent

(a) Parent means—

- (1) A biological or adoptive parent of a child;
 - (2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
 - (3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the state if the child is a ward of the state);
 - (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
 - (5) A surrogate parent who has been appointed in accordance with Sec. 300.519 or section 639(a)(5) of the Act.
- (b) (1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.
- (2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of this section.
- (2) The public agency, after reasonable efforts, cannot locate a parent;
- (3) The child is a ward of the state under the laws of that state; or
- (4) The child is an unaccompanied homeless youth as defined in section 725 (6) of the McKinney-Vento Homeless Assistance Act (42 USC 11434a(6)).
- (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 parents. This must include a method:
- (1) For determining whether a child needs a surrogate parent; and
 - (2) 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 a 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 any way permitted under state law.
 - (2) Public agencies must ensure that a person selected as a surrogate parent:
 - (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 professional or personal interest that conflicts with the interest of the child the surrogate parent represents; and
 - (iii) Has knowledge and skills that ensure adequate representation of the child.
- (e) Non-employee requirement; compensation. A person otherwise qualified to be a surrogate parent under paragraph (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

IDEA Regulation 300.519 Surrogate Parents

(a) General. Each public agency shall ensure that the rights of a child are protected if—

- (1) No parent (as defined in 300.30) can be identified;

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 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.

IDEA 2004 Section 615(b)(2)

Procedures shall include the following: (A) Procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual to act as a surrogate for the parents, which surrogate shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child. In the case of a child who is a ward of the state, such surrogate may alternatively be appointed by the judge overseeing the child's care provided that the surrogate meets the requirements of this paragraph, and an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)), the local educational agency shall appoint a surrogate in accordance with this paragraph. (B) The State shall make reasonable efforts to ensure the assignment of a surrogate not more than 30 days after there is a determination by the agency that the child needs a surrogate.

The laws: State of Minnesota

Minnesota Rule 3525.2435 Effort to Locate Parent

Reasonable efforts shall be made to locate the parent. These may be made through documented phone calls, letters, certified letters with return receipts, and visits to the parent's last known address.

Minnesota Rule 3525.2440 Surrogate Parent Appointment

The district shall appoint the surrogate parent when:

- A. The parent, guardian, or conservator is unknown or unavailable;
- B. The pupil is a ward of the commissioner of human services; or
- C. The parent requests in writing the appointment of a surrogate parent. The request may be revoked in writing at any time.

Minnesota Rule 3525.2450 Removal of Surrogate Parent

A surrogate parent may be removed by majority vote of the school board. The surrogate parent must be notified of the time and place of the meeting at which a vote is to be taken and of the reasons for the proposed removal. The surrogate parent shall be given the opportunity to be heard. Removal may be for any of the following reasons:

- A. Failure to perform the duties required in the team meeting and IEP process and those cited in "Code of Federal Regulations"
- B. Conflict of interest as referenced in "Code of Federal Regulations"
- C. Actions that threaten the wellbeing of the assigned pupil
- D. Failure to appear to represent the pupil
- E. The pupil no longer needs special education and related services

Minnesota Rule 3525.2455 Surrogate Parent Knowledge and Skills

The district shall either make the information and training available to the surrogate parent or appoint a surrogate parent who has all of the following qualifications:

- A. A knowledge of state and federal requirements
- B. A knowledge of district structure and procedures
- C. An understanding of the nature of the pupil's disability and needs
- D. An ability to effectively advocate for an appropriate educational program for the pupil



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