

TULARE COUNTY/DISTRICT SELPA	POLICY #	7068
STUDENT IDENTIFICATION – RECORDS – SERVICES – MISC. LP	Adopted:	7/11/07
	Revised:	2/27/07

*Appointment of Surrogate Parents
for Special Education Students*

Surrogate parent means an individual assigned to act as a surrogate for the parent/guardian. The surrogate may represent an individual with disabilities in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the IEP, and in other matters relating to the provision of FAPE to the individual with a disability. (34 CFR 300.519; EC 56050)

In accordance with state and federal law, and in order to ensure the rights of special education students are protected, the Local Educational Agency (LEA) shall appoint, as necessary, a surrogate parent to represent a child with disabilities. Such appointment shall be made not more than 30 days after the need has been identified.

The surrogate parent shall serve as the child’s parent and shall have all the rights related to the child’s education that a parent has with respect to special education. (See Title 20, Section 1400 of the US Code and Code of Federal Regulations, Part 300.)

Responsibility for Appointment

Pursuant to Government Code 7579.5, when a student is a ward of the court, the district would appoint a surrogate parent only when the court has limited the right of the parent/guardian to make educational decisions for his/her child and the student has no responsible adult, such as a foster parent, to represent him or her. Since Welfare and Institutions Code 361 and 726 require the juvenile court to appoint a responsible adult when the court limits parental rights, it will rarely be necessary for the district to appoint a surrogate because that appointment would be superseded by the court’s appointment of a responsible adult or foster parent.

Otherwise, it is the responsibility of the LEA to appoint an individual to act as a surrogate parent. Each LEA shall have a method for:

- determining whether a child needs a surrogate parent,
- assigning a surrogate parent to the child, and
- provide training and information to ensure surrogate parents have the knowledge and skills necessary to represent the child adequately.
- terminating a surrogate parent appointment.

Determining Need for a Surrogate Parent

The LEA shall appoint a surrogate parent to represent a student with disabilities under one or more of the following circumstances:

- No parent guardian for the student can be identified;
- The district, after reasonable efforts, cannot discover the location of a parent, foster parent or legal guardian for the child.
- The child is adjudicated a dependent or ward of the court (pursuant to Welfare and Institutions code 300, 601 or 602) and all of the following conditions are satisfied:
 - a. The court has referred to the student for special education and related services or the student has a valid individualized education program (IEP).
 - b. The court has specifically limited the right of the parent/guardian to make educational decisions for his/her child.
 - c. The student has no responsible adult to represent him or her (pursuant to WIC 361 or 726 or EC 56055);
- The student is an unaccompanied homeless youth not in the custody of a parent/guardian;
- The student has reached the age of majority but has been declared incompetent by a court of law.

When appointing a surrogate parent, the LEA shall give first preference to the following individuals:

- a relative caretaker,
- a Court Appointed Special Advocate (CASA),
- a foster parent.

If none of these individuals are willing or able to act as a surrogate parent, the LEA shall select a surrogate parent of its choice.

If the child is subsequently removed from the home of the relative caretaker or foster parent who was appointed as a surrogate parent, the LEA shall appoint another surrogate parent.

Circumstances under which a Surrogate Parent is not appointed

A surrogate parent shall not be appointed for a child who:

- is a dependent or ward of the court if the rights of the parents to make educational decision have not been specifically limited or removed,
- has reached the age of majority (unless the child has been declared incompetent by a court of law).

Surrogate Parent Qualifications

Persons appointed as Surrogate Parents shall:

- as far as practical be culturally sensitive to the assigned child,
- have no vested interests that conflict with the child's educational interests,

- not be an employee of the LEA or any other agency that is involved in the education or care of the child, and
- have knowledge and skills that ensure adequate representation of the child.

Surrogate Parent Responsibilities

The surrogate parent appointed by the LEA shall represent the child in all matters relating to the child's education that a parent has under the Individuals with Disabilities Education Improvement Act (2004) including identification, assessment, instructional planning and development, educational placement, review and revision of the IEP, and in other matters relating to the provision of a free and appropriate public education (FAPE).

The representation of the surrogate parent shall include written consent to the IEP, including non-emergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Government Code 75760-7588.

Surrogate parents shall have access to the student's school records as necessary to fulfill their responsibilities as surrogate parents and in accordance with LEA policy and administrative regulations.

The Surrogate Parent shall meet with the child at least one time.

Termination of Surrogate Parent Appointment

The LEA must terminate a surrogate parent agreement under the following conditions:

- Parent/guardian who has educational rights is located
- Parent/guardian rights for education are reinstated by action of the court
- Student is determined to be ineligible for special education services by the IEP team
- Student reaches the age of majority
- Conflict of interest becomes evident for the appointed surrogate parent
- Surrogate parent is unwilling or unable to carry out his/her responsibilities in the best interest of the child.

Reference: EC 56050; 56026
34 CFR 300.515
GC 7579.5; cf. 6159; 3350; 5125

SELPA Publications: Surrogate Parents Publication, Tulare County/District
SELPA, September 2006