

Surrogate Parenting



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Surrogate Parent Qualifications

Most often a surrogate parent is either a foster parent or a volunteer from the local community. A surrogate parent is assigned to an eligible child through a letter from the Early Intervention/Early Childhood Special Education supervisor. This appointment is usually “open-ended” with an annual review.

To meet the state and federal regulation requirements, a surrogate parent must:

- have no conflicting interest with the child being represented;
- not be an employee of a public agency involved in the care or education of the child (such as a DHS worker, teacher, or group home director);
- possess skills and knowledge to adequately represent the child; and
- understand the state and federal requirements, school district procedures, and the nature of the child’s disabilities and needs. Training will be offered to surrogate parents to facilitate this understanding.

Foster parents may be surrogate parents if they meet the criteria above and are officially appointed (and trained, if needed). Foster parents are NOT automatically considered surrogate parents.

Although not a legal requirement, it is often preferable that the surrogate parent and the child share a similar background, such as race or culture.

Some other qualities of an ideal surrogate parent are:

- a commitment to learning about the child’s educational needs and the special education system he or she is enrolled in; and
- an ability to communicate constructively and effectively with school personnel.

There are three categories of surrogate parent:

- foster parents;
- volunteers recruited from the local community; and
- a natural parent when the child is a ward of the state and the parent is still actively involved in the child’s program and activities.

Duties of a Surrogate Parent

The duties of a surrogate parent are to:

- protect the special education rights of the child;
- be acquainted with the child’s disability and the child’s special education needs;
- represent the child in all matters relating to the identification, replacement or annual evaluation, individualized family service plan, and education placement of the child; and
- represent the child in all matters relating to the provision of a free appropriate public education to the child.

The Role of the Surrogate Parent in Conflict Resolution

Despite all precautions to ensure an appropriate evaluation, placement, and an individual family service plan for the child with disabilities, the process may at some time seem unsatisfactory to the surrogate parent. If this is the case, the surrogate can challenge the agency's decision regarding services for the child in several ways.

By law, the surrogate has the right to challenge a decision of the agency if the surrogate believes:

- the agency's evaluation of the child was not adequate;
- the surrogate's views were not adequately considered by agency officials at the IFSP meeting;
- the written IFSP developed for the child is not responsive to the child's individual abilities and needs;
- the services the agency is offering are not based on the goals identified in the child's IFSP;
- services promised by the agency have been unduly delayed or denied;
- the child is showing no progress or insufficient progress;
- the child has been placed in a setting which is not "least restrictive" and which limits contact with non-disabled children of similar age.

The surrogate parent also has the right to challenge the agency if:

- the surrogate parent has requested that the agency evaluate or re-evaluate the child and the agency refused to do so;
- the surrogate parent has requested to see all of the child's agency records and the agency refuses;
- the surrogate parent believes the child's agency records contain false or misleading information and has requested removal of that information, but the agency refuses to do so.

If satisfactory solutions cannot be reached after discussion with agency staff, the surrogate parent should consult with the coordinator of the program. A surrogate parent may also seek assistance on a particular issue from the contractor for the region or the special education staff at the Oregon Department of Education.

There are various methods available to a surrogate parent when issues need to be resolved regarding education services for the child. Because of the significant role that early intervention or special education plays in the life of a child with disabilities, a surrogate parent's efforts in advocating for the educational interests of the child are of critical importance to that child's well-being and future.

Early Intervention or Special Education Mediation

Mediation is an optional and voluntary conflict resolution procedure agreed to by both parties. A trained mediator assigned by the Department of Education would convene the mediation session and seek to develop an acceptable agreement. The goal of mediation would be to develop an agreement that is acceptable to all parties rather than finding fault by determining who is right or wrong.

Change or Termination of a Surrogate Parent

A request for a change or termination of assignment as surrogate may be made where:

- the person appointed as a surrogate parent is no longer willing to serve;
- the child reaches 21 years of age or the child's elementary/secondary schooling is terminated;
- the child is no longer eligible for special education services;
- the legal guardianship of the child is transferred to a person who is able to carry out the role of the parent;
- the parent, who was previously unknown or unavailable, is now known or available; or
- the appointed surrogate parent is no longer eligible.

Rights of Surrogate Parents

By law, a surrogate parent's rights in the educational process are the same as for natural parents. A surrogate parent is appointed to assure that the child's rights are protected. These include:

- the right to a free and appropriate public education in accordance with and individualized family service plan (IFSP);
- the right to receive an appropriate, non-discriminatory educational assessment administered in the child's primary language; and
- the right to be educated in the least restrictive environment appropriate for his or her needs.

A surrogate parent need not be alone in the process of assuring that their student receives the education determine most appropriate for them. At each step resources are available to help a surrogate parents, including social service agencies and advocates for people with disabilities. If a surrogate parent believes their student is not receiving an appropriate education, they can initiate due process procedures. A surrogate parent is entitled to:

- inspect and receive a copy of the child's educational records;
- request changes in inappropriate or inaccurate information contained in those records;
- receive information about assessment procedures, tests, and results of evaluations;
- seek an independent assessment (evaluation) if the school's evaluation methods and/or results appear inappropriate or inadequate;
- participate fully in the planning of the child's IFSP;
- receive information about available special education services;
- question the appropriateness of the child's educational program;
- decide if a proposed special education placement and program is appropriate for the child by approving or disapproving the IFSP;
- talk with people involved with the child's education to obtain both regular progress reports and routine communications;
- review and make decisions on any proposed changes in the child's educational program;
- request a parent-school conference, new evaluation, or planning meeting when necessary;
- bring an outside person and the child, if appropriate, to any meeting;

- receive notification in writing when the school proposes;
 - assessing (evaluating) the child;
 - changing placement;
 - changing the IFSP;
 - calling an educational planning meeting;
 - transition planning
- receive information from the school about free or low cost legal services in your area that might be needed for legal guidance in performance of your surrogate duties;
- initiate a due process proceeding if needed;
- receive notification if the school is beginning due process proceedings;

“Due Process” proceedings is the official process the surrogate parent and school officials follow when there is a disagreement about the child’s program.

Federal Regulations on Surrogate Parents

From the Individuals With Disabilities Act (IDEA), 300.514

- A. General: Each public agency shall insure that the rights of the child are protected when:
 - 1. no parent can be identified;
 - 2. the public agency, after reasonable efforts, cannot discover the whereabouts of a parent, or;
 - 3. the child is a ward of the state under the laws of that state.
- B. Duty of the public agency: The duty of a public agency under paragraph (a) of this section included the assignment of an individual to act as a surrogate for the parents. This must include a method:
 - 1. for determine whether a child needs a surrogate; and
 - 2. for assigning a surrogate parent to the child.
- C. Criteria for the selection of surrogate parents:
 - 1. the public agency may select a surrogate parent in any way permitted under state law;
 - 2. public agencies shall insure that a person selected as surrogate:
 - i. has no interest that conflicts with the interests of the child he or she represents; and
 - ii. has knowledge and skills that insure adequate representation of the child.
- D. Non-employee requirement: Compensation:
 - 1. a person assigned as a surrogate must not be an employee of a public agency which is involved in the education or care of the child;
 - 2. a person who otherwise qualifies to be a surrogate parent under paragraph (b) and (c) (1) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as surrogate to the child.
- E. Responsibilities: The surrogate may represent the child in all matters relating to:
 - 1. the identification, evaluation, and educational placement of the child; and
 - 2. the provision of a free and appropriate public education to the child.

Code of Federal Regulations, Title 34, Section 300.

A copy of Parental Rights in Special Education has been provided with this Surrogate Parent Manual. For further information regarding surrogate parenting, call the High Desert Education Service District, Early Intervention/Early Childhood Special Education Program, at (541) 389-5437

Disability Definitions

Autism is a severe and chronic disorder affecting communication and behavior. It is a behaviorally defined syndrome manifested during early development. Essential features include disturbances in the following areas: 1) speech, language, and communication; 2) capacity to relate to people, objects, and events; 3) responses to sensory stimuli; and 4) developmental rates and/or sequences. These features usually occur simultaneously between the ages of 3 and 5 years, while disturbances in responses to sensory stimuli and developmental rates may fade or decrease with age and training. Autism occurs by itself or in conjunction with other handicapping conditions.

Communication Disorder means the impairment of speech articulation, voice, fluency, or the impairment or deviant development of language comprehension and/or expression, or the impairment of the use of spoken or other symbol system that adversely affects educational performance. One or more of the following components of language may be manifested in the impairment: morphology, syntax, semantics, phonology, and pragmatics.

Deaf-Blind means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that the child cannot be accommodated in special education programs designed solely for the hearing impaired or the visually impaired.

Developmental Delay means delay, at a level of functioning and in accordance with criteria established by rules of the State Board of Education, in one or more of the following developmental areas: cognitive, physical (including vision and hearing), communication, social or emotional, or adaptive; or a disability, in accordance with criteria established by rules of the State Board of Education, that can be expected to continue indefinitely and is likely to cause a substantial delay in a child's development and ability to function in society.

Hearing Impaired is a general, all-inclusive term indicating some impairment of the central or peripheral auditory system resulting in measurable hearing loss.

Hard of Hearing refers to a mild to moderate hearing impairment, either permanent or fluctuating, which may adversely affect educational performance, but allows the student to process information through the auditory channel.

Deaf indicates a severe to profound hearing impairment, which has a high probability of affecting educational performance.

Orthopedically Impaired means a child who has a motor disability caused by an anomaly, disease, or impairment by other conditions (e.g. cerebral palsy, spina bifida, muscular dystrophy, or traumatic brain injury) and who requires specialized and integrated services in order to benefit from an educational program.

Other Health Impaired means limited strength, vitality, or alertness due to chronic or acute health problems, such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational performance.

Visually Impaired means a visual impairment, which, even with correction, adversely affects a child's educational performance. The term includes those children who are partially sighted or blind. Visual impairment is a general term indicating any degree of malfunction of the visual system.

Partially Sighted refers to a visual loss, which adversely affects educational performance. Partially sighted children may have sufficient visual functioning to read regular or large print, and they may use specialized magnifiers.

Blind indicates a condition in which there is not usable vision for academic purposes and an alternative form of communication to the printed word (e.g. Braille or audio-recorded material) is required. A blind student may have a small amount of visual functioning that is useful in traveling independently.