

Surrogate Parents

Fast Facts #11 (08-12)

Florida Statutes and State Board of Education Rule 6A-6.0333 defines a surrogate parent as an individual appointed to act in the place of a parent in safeguarding a student's rights in the exceptional education decision-making process, when the student's parent, after reasonable efforts, cannot be located by the school district, the student is a ward of the state under State law, or the student is an unaccompanied homeless youth.

NOTE: *For students living in residential facilities, group homes or foster homes, district personnel must determine if the biological or adoptive parent (or guardian) is available, and if a court has not prohibited the biological or adoptive parent's (or guardian's) right to have contact with and make educational decisions for the child, then biological or adoptive parent (or guardian) continues to represent the child in educational decisions.*

Rights of the Surrogate Parent	A person appointed as a surrogate parent is entitled to all of the procedural safeguards afforded to a parent with respect to the identification, evaluation, and placement of an exceptional student with a disability or a student who is suspected of being an exceptional student with a disability.
Responsibilities	<p>A surrogate parent is expected to:</p> <ul style="list-style-type: none"> • Attend training sessions • Become familiar with the district's procedures for providing services to students with disabilities • Meet the student • Meet the student's teacher(s) and others who work with the student • Observe the student's school day • Become familiar with the student's background, abilities, and disabilities • Participate in individual educational plan (IEP) meetings, and other educational meetings regarding the student • Help make decisions about the student's education • Give or withhold consent for actions proposed by the district, as appropriate • Ask the school to take actions related to the student's education • Understand all procedural safeguards available and invoke them, as appropriate
Recruitment and Training	<p>The ESE Teams at the Area Offices conduct recruitment and training of Surrogate Parents.</p> <p>NOTE: <i>The district must ensure the assignment of a surrogate parent not more than 30 days after determining that the student needs a surrogate parent.</i></p>
Duration of Surrogate Parent Appointment	<p>A surrogate parent continues in the appointed role until one of these circumstances occurs:</p> <ul style="list-style-type: none"> • The student is determined to no longer be eligible for or in need of special education services, except when termination of special education services is being contested; • The legal guardianship for the student is assigned to a person who is able to carry out the role of the parent; • The parent who was previously unknown becomes known; or the whereabouts of a parent which was previously undiscovered, is discovered; • The appointed surrogate parent no longer wishes to represent or is unable to represent the student; • The superintendent or court that appointed the surrogate determines that the surrogate parent no longer adequately represents the student; or • The student moves to a geographic location which is not reasonably accessible to the appointed surrogate parent.
Assignment of Surrogate Parent	For assistance with the assignment of a surrogate parent, school personnel should contact a member of the ESE Team at the applicable Area Office.

Do students with disabilities who live with foster parents need surrogate parents?

It depends. A therapeutic foster parent may not serve as a surrogate parent. Otherwise, a foster parent meets the definition of “parent” as a “person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of a parent.” A foster parent is not considered an agency employee solely because they receive payment for a child cared for in the foster home. Foster parents serve as “parents” to students with disabilities in educational matters.

However, if the foster parent does not have an “ongoing, long-term parental relationship” with the child or is unwilling or unable to represent the child’s educational interests, a surrogate parent may be needed. The determination regarding the nature of the relationship between the child and the foster parent must be made using school personnel’s best professional judgment. For example, if the child has resided with the foster parent for a very short time or if the district has knowledge that the foster parent has not demonstrated an interest in the child’s education, it may be in the best interest of the child that a surrogate parent be appointed. It is recommended that the information that school personnel relied upon to make this determination be documented in the appropriate file.

Does a student with disability need a surrogate parent after turning 18 years of age?

No. When a student reaches the age of majority, the student is no longer legally required to have surrogate parent representation in educational matters. In Florida, the age of majority is 18 years of age. At that time, parental rights in the ESE process transfer to the student. However, if a student with a disability has been determined to be incapacitated under State law and cannot make educational decisions, parental rights have therefore not been transferred to the student. In this circumstance, the provision of a surrogate may be extended at the district’s discretion. In addition, some districts continue to provide a surrogate parent after a student reaches age 18 if the student requests it.

What are the minimum qualifications of a surrogate parent?

The following are the minimum qualifications of a surrogate parent:

- Be at least 18 years of age
- Have no personal or professional interest that conflicts with the interests of the student whom the surrogate represents
- Not be an employee of the local school board or other public or private agency involved in the education or care of the student (including, not be the operator or staff of a group home, therapeutic foster home, or residential facility—other than a foster home)
- Have knowledge, skills, and experience demonstrated by successful completion of training using materials developed and approved by the Bureau of Exceptional Education and Student Services

Operators and staff of group homes, therapeutic foster homes, and residential facilities—other than foster homes—may not serve as a surrogate parent due to the requirement that surrogate parents have no interest that conflicts with the interest of the student represented.

Can a surrogate parent represent more than one student?

Yes. The number of students that a surrogate parent represents is determined by the district and the person serving as a surrogate parent.

What is the surrogate parent’s right of access to records?

The surrogate parent has the same access to educational records as a biological/adoptive parents.

What are the limits of a surrogate parent’s responsibilities?

The responsibilities of a surrogate parent are limited to matters relating to the provision of a free appropriate public education (FAPE) for a student. The following areas are specifically excluded from the purview of the surrogate parent: care, maintenance, custody, residential placement, or any other area not specifically related to the education of the child unless the same person is appointed by the court for such other purposes.

Special Circumstance for Homeless Youth: In the case of a student who is an unaccompanied homeless youth, appropriate staff of emergency or transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents until a surrogate can be appointed in accordance with all of the minimum qualifications under the federal regulations.

REFERENCES:

Rule 6A-6.03333, Florida Administrative Code (FAC)

IDEA 2004

34 CRF Parts 300 and 301

FDOE Technical Assistance Paper FY 2012-17 (<http://info.fl DOE.org/docushare/dsweb/Get/Document-6290/dps-2012-17.pdf>)

Additional information pertaining to surrogate parents can be found in the District’s online *Understanding Compliance Issues* manual.