

Glenn County Special Education Local Plan

SELPA Administrative Regulation

Surrogate Parents

Conditions Necessitating a Surrogate Parent

Local Education Agencies (LEA) shall appoint a surrogate parent to represent a student with disabilities under one or more of the following circumstances: (Government Code 7579.5; 20 USC 1415(b)(2); 34 CFR 300.519)

1. No parent/guardian for the student can be identified.
2. The district, after reasonable efforts, cannot discover the location of a parent or legal guardian of the student.
3. The student 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 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 Welfare and Institutions Code 361 or 726 or Education Code 56055
4. The student is an unaccompanied homeless youth not in the custody of a parent/guardian, as defined in 42 USC 11434a

Appointment of a Surrogate Parent

Upon a determination that a student needs a surrogate parent, LEAs shall make reasonable efforts to ensure that the surrogate is appointed within 30 days. (20 USC 1412(b)(2)(B))

When appointing surrogate parents, the LEA shall give first preference to a relative caretaker, foster parent or court-appointed special advocate, provided any of these individuals exists and is willing and able to serve. If none of these individuals is willing or able to act as a surrogate parent, the LEA shall select the surrogate parent of his/her choice. If the student is moved from the home of the relative caretaker or foster parent who was appointed as the student's surrogate parent, the LEA shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the student. (Government Code 7579.5)

The LEA will ensure that a person selected to act as a surrogate parent:

1. is not an employee of the State Education Agency (SEA) or LEA, or any other agency that is involved in the education or care of the child;
 - a. an employee of a non-public agency that only provides non-educational care is not considered an employee as defined above

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- b. a person is not considered an employee of the LEA solely because he or she is paid by the LEA to act as a surrogate parent
2. has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents. An individual who would have a conflict of interest means a person having any interests that might restrict or bias his or her ability to advocate for all of the services required to ensure that the child has a free appropriate public education.
3. has knowledge and skills that ensure adequate representation of the child.

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’ surrogates until a surrogate parent meeting the above requirements can be appointed.

Individuals who may serve as surrogate parents include, but are not limited to, foster care providers who do not meet the definition of parent pursuant to Education Code 56028, retired teachers, social workers and probation officers who are not employees of the State Department of Education, the local education agency or any other public agency that is involved in the education or care or custody of the child.

Duties of Surrogate Parent

Surrogate parents shall have all the rights relative to the student's education that a parent has under the Individuals with Disabilities Education Act pursuant to 20 USC 1414-1482 and 34 CFR 300.1-300.756. Surrogate parents may represent the student in all matters relating to 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. (Education Code 56050; Government Code 7579.5)

In addition, the representation of the surrogate parent shall include the provision of written consent to the IEP including non-emergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Government Code 7570 and Education Code 56050.

Surrogate parents are required to meet with the child at least one time. He or she may meet on additional occasions, attend IEP meetings, review the child’s educational records and consult with persons involved with the child’s education. Surrogate parents should be sensitive to the child’s cultural background. Surrogate parents shall have access to the student's school records as necessary to fulfill their responsibilities as surrogate parents and in accordance with Board policy and administrative regulation. They shall comply with federal and state law pertaining to the confidentiality of student records and information.

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Surrogate parents shall volunteer their services to the district and serve without compensation. The district may reimburse them for mileage and other incidental expenses directly associated with their duties as surrogate parents.

Termination of Appointment

LEAs shall terminate the appointment of a surrogate parent under the following conditions:

1. The person is not properly performing the duties of a surrogate parent
2. The person has an interest that conflicts with interests of the child entrusted to his or her care
3. The student is no longer in need of special education (Government Code [7579.5](#))
4. The student reaches 18 years of age, unless he/she chooses not to make education decisions for himself/herself or is deemed by a court to be incompetent (Government Code [7579.5](#))
5. Another responsible adult is appointed to make educational decisions for the student (Government Code 7579.5)
6. The right of the parent/guardian to make educational decisions for the student is fully restored (Government Code 7579.5)

Surrogate parents may resign from their appointment only after he or she gives notice to the LEA.

Recruitment and Training

LEAs shall provide a list of perspective candidates to serve as surrogate parents to the SELPA. The SELPA, in partnership with Glenn County Office of Education Foster Youth Services, shall provide training in identification, assessment, IEP development and procedural safeguards to surrogate parents so that they can adequately represent the interests of their students. The SELPA shall maintain a list of persons qualified to act as surrogate parents for LEAs.

Hold Harmless

Surrogate parents shall be held harmless when acting in their official capacity except for acts or omissions that are found to have been wanton, reckless or malicious.

Nothing in this regulation may be interpreted to prevent a parent or guardian of a student with disabilities from designating another adult to represent the interests of their child for special education purposes.