

Series 6000 – INSTRUCTION

Policy 6159.3

Appointment of Surrogate Parent for Special Education Students

In order to protect the rights of students with disabilities, the Solano Special Education Local Plan Area (SELPA) or designee shall appoint a surrogate parent to represent a student with disabilities as necessary in accordance with law. The SELPA or designee shall develop procedures for recruiting, training and assigning adults to serve as surrogate parents.

Conditions Necessitating a Surrogate

The SELPA or designee 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 SELPA, 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 the student.
 - c. The student has no responsible adult to represent him or her pursuant to Welfare and Institutions Code 361 or 726 or Education Code (E.C.) § 56055.
4. The student is an unaccompanied homeless youth not in the custody of a parent/guardian, as defined in 42 USC 11434a.
5. The student has reached the age of majority but has been declared incompetent by a court of law.

Appointment of Surrogate Parents

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

When appointing a surrogate parent, first preference shall be given 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 SELPA or designee shall select the surrogate parent of its 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 SELPA or designee shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the student. (Government Code 7579.5)

The SELPA or designee shall ensure that individuals to be appointed as surrogate parents have passed a criminal background check and have demonstrated interest and skill in working with students with disabilities.

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Surrogate parents shall have no interests that conflict with the student's educational interests and shall have knowledge and skills that ensure adequate representation of the student. If a conflict of interest arises after the appointment of a surrogate parent, the Superintendent or designee shall terminate the appointment and appoint another surrogate parent.

Duties of Surrogate Parent

The surrogate parent 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 1400-1482 and 34 CFR 300.1-300.818. The surrogate parent 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. (E.C. § 56050; Government 7579.5)

In addition, the representation of the surrogate parent shall include the provision of written consent to the IEP including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Government Code 7570-7588.

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

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

Termination of Appointment (Government Code 7579.5)

The SELPA or designee shall terminate the appointment of a surrogate parent under the following conditions:

1. When the student is no longer in need of special education
2. When the student reaches 18 years of age, unless they choose not to make education decisions for themselves or the student is deemed by a court to be incompetent
3. Another responsible adult is appointed to make educational decisions for the student
4. The right of the parent/guardian to make educational decisions for the student is fully restored
5. When the surrogate parent no longer satisfies the requirements for appointment as a surrogate parent, as specified above

Legal Reference:

EDUCATION CODE

56028 Parent

56050 Surrogate parents

56055 Rights of foster parents

GOVERNMENT CODE

7570-7588 Interagency responsibilities for providing services to disabled children, especially:

7579.5 Surrogate parent; appointment; qualifications; liability

WELFARE AND INSTITUTIONS CODE

300 Children subject to jurisdiction 361 Limitations on parental control

601 Minors habitually disobedient or truant

602 Minors violating laws

726 Limitations on parental control

Policy 6159.3 (Continued)

Legal Reference: *(Continued)*

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act, especially:

1415 Procedural safeguards

UNITED STATES CODE, TITLE 42

11434a Definitions

CODE OF FEDERAL REGULATIONS, TITLE 34

300.30 Definition parent

300.519 Surrogate parents

Policy Cross-Reference:

0430 Comprehensive Local Plan for Special Education

1312.3 Uniform Complaint Procedures

3350 Travel Expenses

3515.6 Criminal Background Checks for Contractors

3541.2 Transportation for Students with Disabilities

4112.23 Special Education Staff

5125 Student Records

5141 Health Care and Emergencies

5144.2 Suspension and Expulsion/Due Process (Students with Disabilities)

6146.4 Differential Graduation and Competency Standards for Students with Disabilities

6159 Individualized Education Program

6159.1 Procedural Safeguards and Complaints for Special Education

6159.2 Nonpublic, Nonsectarian School and Agency Services for Special Education

6164.4 Identification and Evaluation of Individuals for Special Education

6173 Education for Homeless Children

6173.1 Education for Foster Youth