

CLOVIS UNIFIED SCHOOL DISTRICT

INSTRUCTION

Specialized Programs

APPOINTMENT OF SURROGATE PARENT FOR SPECIAL EDUCATION STUDENTS

A. Definition

For the purposes of Board Policy No. 6159.3 and this administrative regulation, "parent" means: (Education Code 56028, 56055; 34 CFR 300.30; 300.519)

1. A biological or adoptive parent of a child;
2. A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent. To the extent permitted by federal law, a foster parent shall have the same rights relative to a foster child's IEP as a parent/guardian except as limited by Education Code section 56055. A foster parent who had been excluded by court order from making educational decisions on behalf of the child does not have these rights. A foster parent shall have these rights only if the juvenile court has limited the right of the parent or guardian to make educational decisions on behalf of the child, and the child has been placed in a planned permanent living arrangement pursuant to the Welfare and Institutions Code;
3. A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child, including a responsible adult appointed for the child in accordance with Welfare and Institutions Code sections 361 and 726 (but not the State if the child is a ward of the State);
4. An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
5. A surrogate parent who has been appointed pursuant to Government Code section 7579.5 or 7579.6, and in accordance with 34 CFR section 300.519 and Title 20 USC section 1439(a)(5).

B. Circumstances Requiring Appointment of Surrogate Parent

In compliance with the Individuals with Disabilities Education Improvement Act (IDEA) and to protect the rights of the child as necessary in accordance with the law, the District shall appoint a surrogate parent to represent a child with disabilities under the following circumstances: (Government Code 7579.5; 34 CFR 300.519)

1. No parent/guardian for the student can be identified;
2. The District, after reasonable efforts, cannot locate a parent/guardian of the student;

**CLOVIS UNIFIED
SCHOOL DISTRICT**

3. The student is adjudicated a ward or dependent of the court pursuant to Welfare and Institutions Code sections 300, 601, or 602, and all of the following conditions are met:
 - a. The court has referred the student for special education and related services or the student already has a valid individualized education program (IEP);
 - b. The court has specifically limited the right of the parent or guardian to make educational decisions for the student; and
 - c. The student has no responsible adult to represent him or her pursuant to Welfare and Institutions Code section 361 or 726 or Education Code section 56055.
4. The student is an unaccompanied homeless youth, as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act. (42 USC 11434a; Government Code 7579.6)

C. Timeline for Appointment of Surrogate Parent

The District shall make reasonable efforts to appoint a surrogate parent within 30 days of a determination by the District that the child needs a surrogate parent. (Government Code 7579.5; 34 CFR § 300.519)

D. Selection of Surrogate Parent

1. The District may select a surrogate parent in any way permitted under State law. (34 CFR 300.519)
2. As a first preference, the District shall appoint a relative caretaker, foster parent, or court-appointed special advocate, if 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 District shall select a surrogate parent of its choice, in accordance with the requirements enumerated in Part F of this administrative regulation. 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 District shall appoint a new surrogate parent if necessary to ensure adequate representation of the student. (Government Code 7579.5)
3. In the case of a child who is a ward of the state, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate meets the requirements set out in applicable law. (34 CFR 300.519)
4. 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 surrogate parents without regard to the prohibition against appointing a surrogate who is an employee of the California Department of Education, the District, or any other agency that is involved in the education or care of the child until a

CLOVIS UNIFIED SCHOOL DISTRICT

surrogate parent who meets the requirements enumerated in Paragraph F of this administrative regulation can be appointed. (34 CFR 300.519)

E. Rights and Duties of Surrogate Parent

1. The surrogate parent shall have the rights relative to the student's education that a parent has under the IDEA pursuant to 20 USC 1400-1482 and 34 CFR 300.1-300.818. The surrogate parent may represent the child in all matters relating to special education and related services, including identification, assessment, instructional planning and development, educational placement, reviewing and revising the child's IEP, and in all other matters relating to the provision of a free appropriate public education (FAPE) to the child. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the IEP, including nonemergency medical services, mental health treatment services, and occupational or physical therapy services as set out in Government Code sections 7570 through 7587. The surrogate parent may sign any consent relating to IEP purposes. (Education Code 56050; Government Code 7579.5; 34 CFR 300.519)
2. The surrogate parent shall be responsible for fulfilling all of the duties and obligations of a surrogate parent as described in Government Code section 7579.5, including but not limited to meeting with the child at least one time and additional times if needed, reviewing the child's educational records, attending the child's IEP team meetings, consulting with persons involved in the child's education, signing any consent relating to IEP purposes, and complying with federal and state laws pertaining to confidentiality of student records and other information. A surrogate parent should be culturally sensitive to his or her assigned child. (Government Code 7579.5)
3. Surrogate parents shall volunteer their services to the District and serve without compensation.

F. Identification and Appointment of Surrogate Parent

The Superintendent 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.

1. The recruitment, training and assignment of surrogate parents shall be the responsibility of the District's Administrator of the Special Education Local Plan Area (SELPA) and Psychological Services.
2. A person appointed as a surrogate parent shall have all of the following qualifications: (Government Code 7579.5)
 - a. Be an adult 18 years of age or over;

**CLOVIS UNIFIED
SCHOOL DISTRICT**

- b. Have no personal or professional interest that conflicts with the interest of the child (as defined in Government Code section 7579.5) the surrogate parent represents;
- c. Be committed to learning about the child's educational needs and about the special education system in which the child is enrolled;
- d. Have knowledge, special training, and skills to ensure adequate representation of the child;
- e. Be culturally sensitive to his or her assigned child;

Pass a fingerprint screening and comply with the District's Board Policy 1240 - Volunteer Assistance).

3. The surrogate parent cannot be an employee of the California Department of Education, the District, or any other agency that is involved in the education or care of the child.

G. Resignation or Termination of Appointment

1. A surrogate parent may resign his or her position only after he or she gives notice to the District. (Government Code 7579.5)
2. The District shall terminate the appointment of a surrogate parent under the following circumstances: (Government Code 7579.5)
 - a. The surrogate parent is not properly performing the duties of a surrogate parent;
 - b. The surrogate parent has an interest that conflicts with the educational interests of the child entrusted to his or her care;
 - c. When the student is no longer in need of special education;
 - d. When the student reaches 18 years of age, unless the student chooses not to make educational decisions for himself or herself, or is deemed by a court to be incompetent;
 - e. When another responsible adult is appointed to make educational decisions for the student;
or
 - f. When the right of the parent or guardian to make educational decisions for the child is fully restored.

See Government Code section 7579.5 for further clarification of persons who may serve as surrogate parents and their duties.

CLOVIS UNIFIED SCHOOL DISTRICT

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