

Who is responsible for training a surrogate parent?

The educational district providing the special education services is responsible for training the surrogate. Districts can design and provide their own surrogate training or they can contact Marilyn Nelson or Steve Schoenbauer at the Northern Lights Special Education Cooperative, who have agreed to provide the training at no cost to the districts.

The Northern Lights Interagency Council's Parent Advisory Committee has agreed to be trained as surrogate parents and to serve as needed by districts. It is recommended that districts identify two or three individuals who would be willing to act as surrogate parents and provide them with training so that they are able to serve on short notice. Parent Teacher Organizations might be an excellent source for soliciting surrogate parents.

Is the school required to do a background check on surrogates they appoint?

No. The school district is not required to complete a background check on an individual they appoint as surrogate parent.

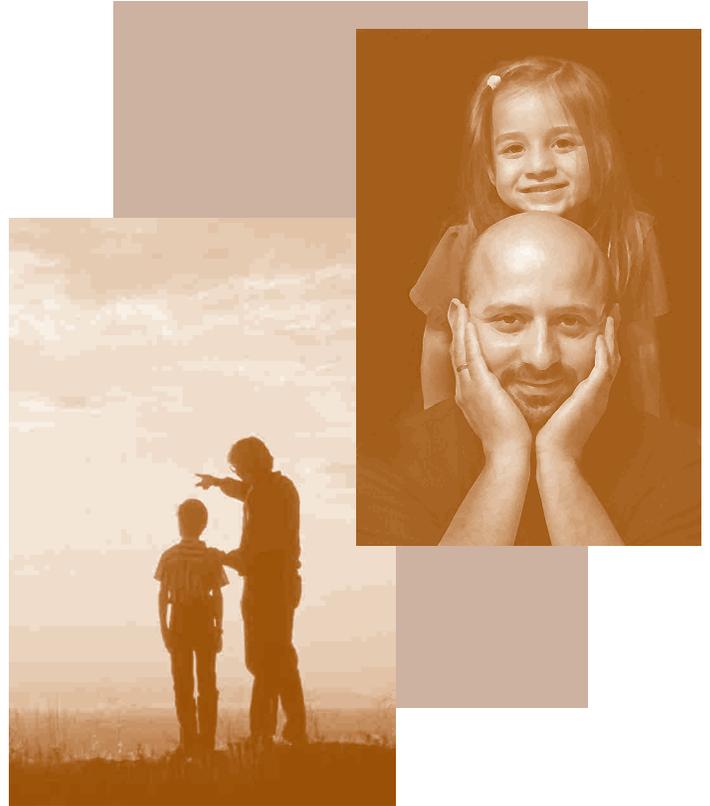
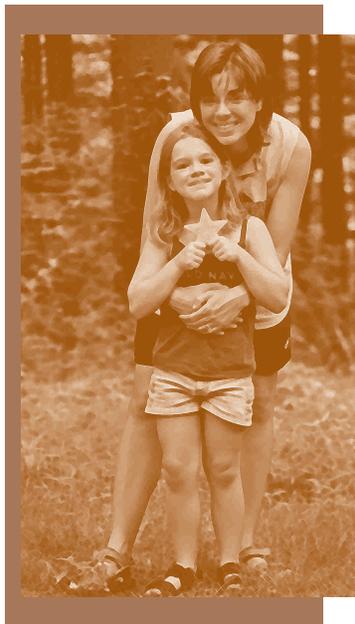
Who may not be a surrogate parent?

- A person unwilling or unable to accept the responsibilities of a surrogate parent;
- An employee of the State or local educational agency;
- An employee of any public agency involved in the education or care of the student;
- A person whose interests conflict with those of the child

Where can I obtain additional information about surrogate parents in Minnesota?

Much of the information for this guide was obtained from the Parent Advocacy Coalition for Educational Rights (PACER). Their website (www.pacer.org) contains additional, more in depth information, as well as an excellent resource "Online Training for Surrogate Parents" (2006).

The Minnesota Department of Education website (<http://education.state.mn.us>) provides all the Minnesota Rules related to surrogate parents.



Northern Lights Special Education Cooperative

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serves the school districts of:

Barnum • Carlton • Cloquet
Cromwell • Esko • Hermantown
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SURROGATE PARENTS

A Quick
Reference
Guide



Find ANSWERS TO YOUR QUESTIONS

What is meant by
“surrogate parent”?

Can the appointment of
a surrogate parent be
changed or terminated?

What are the responsibilities
of the surrogate parent?

Who is responsible for
training a surrogate parent?



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Introduction and Purpose

This booklet is designed as a reference guide for agency personnel to assist in the understanding of the purpose for and process of appointing a surrogate parent. It is hoped that agents of the Department of Education and the Department of Health and Human Services will disseminate this guide to their staff and colleagues in order to promote a shared understanding of who has authority to make educational decisions for children in care or custody.

Who can sign due process paperwork related to special education services?

Special education services require the permission of the student’s parent or legal guardian. In the absence of such an individual, a surrogate parent needs to be appointed to represent the student’s interests and provide consent. County, state and educational employees are prohibited from signing due process paperwork in place of the parent.

What is meant by “surrogate parent”?

Surrogate parent means a person appointed by the providing educational district to advocate on the behalf of a student and to help ensure and protect the rights of the student to a free and appropriate public education (FAPE). The surrogate parent represents the child and signs all documents related to identification, evaluation, educational placement and the provision of FAPE to the child, that is to say, special education due process.

Who is considered to be a parent?

For purposes of special education, in Minnesota law, “parent” means:

- A natural/biological or adoptive parent of a child;
- A guardian, but not the state if the child is a ward of the state;
- A person acting in the place of the parent, such as a grandparent or stepparent with whom the child lives; or a person who is legally responsible for the child’s welfare;
- A foster parent if:
 1. The natural parents’ authority to make educational decisions on the child’s behalf has been extinguished under state law;
 2. The foster parent has an ongoing, long-term parental relationship with the child;
 3. The foster parent is willing to make the educational decisions required of a parent under IDEA; and
 4. The foster parent has no interest that would conflict with the interests of the child.
- A surrogate parent who has been appointed by the district. If the foster parent meets the four criteria listed above, districts could still designate them as surrogate parents to avoid any challenges to their authority.

At what age is a child entitled to a surrogate parent?

A surrogate parent may be appointed for any child from birth to age seventeen, who has or may have a disability and for whom no adult in a parental role can be identified. A child who has reached the age of majority (18) may request that a surrogate parent be appointed.

Who can appoint a surrogate parent?

The local educational district providing the special education services, the court through judicial decree, or the person considered to be the parent of the child can all appoint a surrogate parent. Each must abide by the requirements for selecting a surrogate.

What requirements are placed upon the district to locate biological parents before appointing a surrogate parent?

Efforts to locate parents are defined in Minnesota statute only as “reasonable.” It is recommended that efforts should be documented within the child’s file.



When must a district appoint a surrogate parent?

The local educational district must appoint a surrogate parent when:

- The parent, guardian or conservator is unknown or unavailable;
- The pupil is a ward of the state (commissioner of human services); or
- The parent requests, in writing, the appointment of a surrogate parent. The parent may revoke this request at any time.

What are the responsibilities of the surrogate parent?

The surrogate must have:

- Knowledge of state and federal special education requirements;
- Knowledge of district structure and procedures;
- An understanding of the nature of the child’s disability; and
- The ability to effectively advocate an appropriate education program for the student.

The specific duties of the surrogate are:

- Respond with consent or disapproval to requests from the district for an educational evaluation;
- Initiate requests for evaluations or re-evaluations;
- Receive and review student’s educational records and protect their confidentiality;
- Participate in parent-school conferences and Individual Education Plan (IEP) meetings;
- Consent or deny educational placement;
- Initiate complaint or due process procedures;
- Represent child/student in any due process or complaint procedures initiated by the educational provider;
- Monitor the child’s educational development and progress; and
- Act as the child’s parent/advocate by communicating with the school about services or the lack of services.

What is the process for appointing a surrogate parent?

There are no specifications within Minnesota law regarding the procedures for appointment of surrogates by the educational system except that the process must be completed within 30 days from the time the agency determines that the child requires a surrogate parent. The appointment is subject to local district policy.

A recommended process is as follows:

1. Educational district determines appointing a surrogate is appropriate.
2. Appropriate individual(s) is identified.
3. Administration contacts potential surrogate.
4. Surrogate signs an agreement to represent the student in good faith.
5. District provides required training.
6. Surrogate assumes the role of the child's parent for educational purposes.

Sample language for various steps can be downloaded from the NLSEC website (www.nlsec.k12.mn.us). Click on "Downloadable Forms." Scroll down to "Surrogate Parent."

Can the appointment of a surrogate parent be changed or terminated?

Changes in surrogate appointment may occur for reasons related to the child, the parent, or the surrogate. These changes may occur when:

Child

- The child is no longer eligible for special education services.
- The rights transfer to the child at age 18.
- The child graduates.
- The child moves to another district.
- The student, who is between the ages of 18 and 21 and who has previously requested a surrogate, revokes the request.

Parent

- A parent not previously identified or located is now identified or located.
- The legal guardianship is transferred to a person able to carry out the role of parent.
- A foster parent is located who can carry out the role of the parent.
- A parent who previously requested a surrogate, revokes that request.

Surrogate

- The appointed surrogate is no longer eligible.
- The appointed surrogate is no longer willing to serve.

School District

- Once appointed, removal of a surrogate, if determined necessary, requires action of the local school board.



Do surrogate parents become responsible for all the educational activities of the child?

Surrogate parents are responsible only for special education and not general education issues. They do not sign for field trips or purchase school supplies. They represent the child's interest in special education due process.

Can an individual be appointed as surrogate for more than one student?

There is no legal limit to the number of children for whom an individual can be appointed surrogate, although there is a suggested limit of three.

Are there any special considerations or differences in the process when working with individuals designated as a ward of the tribe?

The phrase "ward of the tribe" carries the same implications as "ward of the state" even though tribes suspend, rather than terminate, parental rights.

Can surrogate parents be compensated for their service?

Surrogate parents may be compensated for their efforts or expenses in representing the interests of a child. Payment by the district for these services is not considered to be a conflict of interest.

May a surrogate parent be held liable if he or she makes a wrong decision about a child?

A person acting as a surrogate shall not be held liable for decisions made in good faith in protecting the special education rights of the child.