



## **Appointment of Surrogate Parent For Special Education Students**

**SP:L-7**

The LEA Superintendent or designee shall appoint a surrogate parent to represent a child with exceptional needs as follows:

1. When the child is a dependent or ward of the court, if the court specifically limits the right of the parent or guardian to make educational decisions for the child.
2. When no parent of the child can be identified.
3. When the LEA, after reasonable efforts, cannot discover the location of a parent.

When appointing a surrogate parent, the LEA shall, as first preference, select a relative caretaker, foster parent, or court-appointed special advocate if appropriate. If none of these individuals is willing and/or able to act as a surrogate parent, the district shall select the surrogate parent of its choice. Before individuals are appointed as surrogate parents, the Superintendent or designee shall ensure that they have had training through their district or SELPA office, and have demonstrated interest in working with children with disabilities, sensitivity to ethnic and cultural factors, and the ability to work cooperatively with others.

The surrogate parent shall serve as the child's parent and shall have the rights relating to the identification, assessment, instructional planning, educational placement, reviewing and revising the individualized education program (IEP), and in all other matters relating to the provision of a free and appropriate public education for the child. This representation shall include the provision of written consent to the IEP including non-emergency medical services, mental health treatment services, and occupational or physical therapy. The surrogate parent may sign any consent relating to IEP purposes.

Legal Reference:

EDUCATION CODE

56028 Definition of Parent

56050 Surrogate Parent Definition

GOVERNMENT CODE, CHAPTER 26.5, Division 7, Title 1

7579.5 Appointment of Surrogate Parent; qualifications; liability

UNITED STATES CODE, TITLE 20

1400 et seq. Individuals with Disabilities Education Act, 1997

CODE OF FEDERAL REGULATIONS, TITLE 34

300.20(a)(4) Definition of Parent

300.515 Procedural Safeguards

300.370(b)(2) Recruitment and Training

The Superintendent or designee shall appoint a surrogate parent to represent a child with disabilities under one or more of the following circumstances: (Government Code 7579.5; 34 CFR 300.515)

1. No parent for the child can be identified.
2. The district, after reasonable efforts, cannot discover the location of a parent or legal guardian of the child.
3. The child is adjudicated a dependent or ward of the court pursuant to Welfare and Institutions Code 300, 601 or 602, and either the court has referred the child for special education and related services or the child has a valid individualized education program (IEP).

A surrogate parent shall not be appointed for a child who is a dependent or ward of the court unless the court specifically limits the rights of the parent/guardian to make educational decisions for the child. In addition, a surrogate parent shall not be appointed for a child who has reached the age of majority unless he/she has been declared incompetent by a court of law. (Government Code 7579.5)

When appointing a surrogate parent, the Superintendent or designee shall give first preference to a relative caretaker, foster parent or court-appointed special advocate, provided any of these individuals exists and is willing to serve. If none of these individuals is willing or able to act as a surrogate parent, the Superintendent or designee shall select the surrogate parent of his/her choice. If the child is moved from the home of the relative caretaker or foster parent who was appointed as a surrogate parent, the Superintendent or designee shall appoint another surrogate parent. (Government Code 7579.5)

As far as practical, a surrogate parent should be culturally sensitive to his/her assigned child. (Government Code 7579.5)

Federal and state law, 34 CFR 300.515 and Government Code 7579.5, provide that the surrogate parent cannot be an employee of any public or private agency that is involved in the child's education or care. However, pursuant to 34 CFR 300.515, an employee of a nonpublic agency that only provides non-educational care for the child and who meets the standards specified below may be selected. Persons serving as surrogate parents may include, but are not limited to, foster care providers, retired teachers, social workers, and probation officers, provided that such persons are not involved in the child's education or care and do not have a conflict of interest in representing the child. In the Analysis of Comments to the Federal Regulations, FR 12616, (34 CFR 300.51), the USDE states that a conflict of interest may arise because an educational decision has an impact on which agency will be responsible for paying for services for the child.

Surrogate parents shall have no vested interests that conflict with the child's educational interests and shall have knowledge and skills that ensure adequate representation of the child. 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. (34 CFR 300.515; Government Code 7579.5)

## **Appointment of Surrogate Parent For Special Education Students**

**AR:6b**

The surrogate parent shall have all the rights relative to the child's education that a parent has under the Individuals with Disabilities Education Act (20 USC 1414-1487; 34 CFR 300.1-300.756). The surrogate parent may represent the child 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 nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Government Code 7570-7588. The surrogate parent may sign any consent relating to IEP purposes. (Education Code 56050)

The Superintendent or designee shall terminate the appointment of a surrogate parent whenever he/she no longer satisfies the eligibility requirements for surrogate parents as specified above.

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.

Surrogate parents shall have access to the student's school records as necessary to fulfill their responsibilities as surrogate parents and in accordance with Governing Board policy and administrative regulation. Surrogate parents shall not meet with the student in unsupervised settings. They must meet with the student at least once per year.



### Antelope Valley SELPA District Procedure for Appointing a Surrogate

- 1) The District must investigate the circumstances of the student prior to appointing a surrogate. All reasonable attempts have been made to locate the parent or guardians. It must be **documented** that the parent or guardians no longer have Educational Rights or that the District made reasonable attempts to locate the parent/guardian.
- 2) After it has been determined that a surrogate must be appointed, please consider the following individuals to act as the surrogate; Relative caring for student or foster parent.
- 3) If neither can be located, then the District or SELPA has 30 days to appoint a trained surrogate. The individual must meet the specified criteria on the Agreement Form and Information Form. Training will be completed with the district appointed trainer OR the SELPA.

#### Student Information

<b>Student's Name:</b> _____	
<b>Date of Birth:</b> _____	<b>Ethnicity:</b> _____
<b>School:</b> _____	<b>Phone #</b> _____
<b>District:</b> _____	<b>Phone #</b> _____
<b>Teacher:</b> _____	

  

<b>Student is currently living with:</b> _____	
<b>Relationship to student:</b> _____	
<b>Address:</b> _____	
<b>Student's legal Guardian:</b> _____	
<b>Status of biological parents:</b>	<input type="checkbox"/> Location unknown <input type="checkbox"/> Child is ward of the court <input type="checkbox"/> Other (describe): _____
<b>Address (if known):</b> _____	
<b>Do biological parents have education rights:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No    If rights have been removed, attach court order.	
<b>Is there a legal guardian?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Name:</b> _____
<b>Address:</b> _____	
<b>Phone #:</b> _____	
<b>Has a conservator been appointed?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Name:</b> _____
<b>Address:</b> _____	
<b>Phone #:</b> _____	
<b>Is there a Court Appointed Special Advocate?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Name:</b> _____
<b>Address:</b> _____	
<b>Phone #:</b> _____	

## Antelope Valley Special Education Local Plan Area Surrogate Parent Agreement

This agreement is made and entered into effective this \_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ between \_\_\_\_\_ ("District") and \_\_\_\_\_ ("Surrogate Parent") with respect to the following recitals:

- A. District desires to fulfill its obligation to appoint someone to serve as an educational representative for an individual with exceptional needs to ensure the student obtains a free and appropriate public education under the Individuals with Disabilities Education Act.
- B. Surrogate Parent has expressed a desire and willingness to represent the student for educational purposes.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **APPOINTMENT:** District hereby appoints the above named individual to act as the surrogate parent for \_\_\_\_\_ ("Student"), an individual needing or suspected of needing special education supports and services.

Surrogate Parent agrees to act as the parent and educational representative for Student in accordance with Section 300.315 of Title 34 of the Code of Federal Regulations and other applicable provisions of state and federal law. Surrogate Parent further agrees to act on behalf of Student and to advocate for the education of Student in all ways necessary to ensure Student receives a free and appropriate public education. Surrogate Parent also agrees to communicate with Student **at least ONCE per year**, and other appropriate individuals or agencies to the extent necessary to ensure Student receives a free and appropriate public education.

2. **REPRESENTATIVE:** Surrogate Parent represents that he or she is not an employee of any public or private agency involved in providing education or related services to Student and that he or she has no interest that conflicts with the interest of Student. If at any time during the term of this agreement, Surrogate Parent develops an interest that may conflict with the interest of Student, or becomes an employee of an agency involved in providing education to Student, Surrogate Parent agrees to immediately notify District.
3. **TRAINING:** Surrogate Parent acknowledges the Antelope Valley Special Education Local Plan Area or the member district has provided training regarding the laws applicable to the responsibilities of an educational representative and the continuum of services available for special education students.
4. **TERM:** District hereby appoints Surrogate Parent for a term of one (1) year.
5. **TERMINATION:** Either party may terminate this agreement upon thirty (30) days written notice.
6. **NO ASSIGNMENT:** Surrogate Parent consents that this agreement shall be a personal contract and shall not be assignable, in whole or in part, in any manner whatsoever.
7. **STUDENT RECORDS:** Surrogate Parent agrees to maintain all records of Student reviewed or retained by Surrogate Parent in a confidential manner and agrees that upon termination of this agreement all such records shall be returned to District.

IN WITNESS WHEREOF, the parties have executed this agreement effective on the date set forth above.

Surrogate Parent: \_\_\_\_\_ Date: \_\_\_\_\_

District Director of Special Education or SELPA: \_\_\_\_\_ Date: \_\_\_\_\_

## Educational Representative/Surrogate Parent Information Form

**Directions:** To be completed by an individual wishing to serve as the educational representative or surrogate parent for a student in the Antelope Valley Special Education Local Plan Area (SELPA). **Please type or print legibly.**

### Personal Information

LAST Name:

FIRST Name:

MIDDLE Name:

Address:

City, State & ZIP:

Telephone:

Ethnicity:

Primary Language:

Other Languages Spoken Fluently:

### Employment Information

Occupation:

Employer:

Address:

City, State & ZIP:

Telephone:

1. Have you had **any** affiliations with the school district in **any** capacity as a parent or as a professional?  
☐ Yes      ☐ No  
If Yes: With which school and district? \_\_\_\_\_  
What was your role? \_\_\_\_\_
2. Have you recently participated in training on the role, rights, and responsibilities of an educational representative?  
☐ Yes, Date: \_\_\_\_\_ Location: \_\_\_\_\_      ☐ No
3. Do you have any preferences regarding your assignment (for example students in a certain school district or students with a specific handicapping condition)?  
☐ Yes      ☐ No  
If yes, please explain. \_\_\_\_\_

### Conflict of Interest Determination

To serve as an educational representative, it must be established that you have no interests that conflict with the interests of the student; therefore, we are asking the following questions:

1. Are you an employee of any school district?    ☐ Yes      ☐ No
2. Are you an employee of a public agency involved in the education or care of students?  
☐ Yes      ☐ No
3. Are you an employee of a private agency or group home involved in the education or care of students?  
☐ Yes      ☐ No
4. Do you hold a job that might restrict or bias your ability to advocate for the student's educational needs?  
☐ Yes      ☐ No
5. Do you hold any position that might subject you to administrative influence or reprimand for the faithful execution of your duties as an educational representative?  
☐ Yes      ☐ No
6. Do you hold any opinion or institutional bias against school districts or public agencies involved in the education or care of students?  
☐ Yes      ☐ No

Signature: \_\_\_\_\_ Date: \_\_\_\_\_