

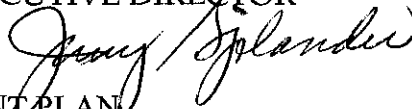
ANCHORAGE SCHOOL DISTRICT  
ANCHORAGE, ALASKA

MEMORANDUM

October 19, 2009

TO: SPECIAL EDUCATION AND RELATED SERVICES  
ADMINISTRATORS, STAFF AND TEACHERS

FROM: JERRY SJOLANDER, EXECUTIVE DIRECTOR  
SPECIAL EDUCATION



SUBJECT: ASD SURROGATE PARENT PLAN

**Rationale for appointing surrogate parents**

Federal and State laws establish the importance of parent participation in the educational decision-making process for their children. Parents often give insight and information that is invaluable in planning an appropriate program for their child. The parent represents the interests of the child in the educational process. Because special educators recognize that the absence of a parent from the special education process may adversely affect decisions regarding the student, federal and state laws and regulations require school districts to appoint a surrogate parent when the parent of a child with a disability cannot be identified and located. However, if a child has been in the same foster home for a period of time and it is reasonable to assume that the Office of Children's Services will not be moving the child to a different foster situation in the foreseeable future, then, the foster parent may serve as the parent of a child for the purposes of special education. (See Affirmation Form)

**When must a surrogate parent be appointed for a student?**

A child may be entitled to a surrogate parent if the child is 3 through 17 years of age or the child is 18 through 21 years of age and has been adjudicated incompetent by a court, or if the child is between 18 and 22 years old and the District determines that it is in the best interest of the child to be appointed a surrogate parent even though the child has attained the age of majority.

1. Within 5 days of the decision to take any action requiring parent participation, or consent, the District attempts to find the parents of the child with a disability.
  - A. Each attempt must be documented in writing. Attempts to locate the parent include phone calls, letters, and certified letters with return receipts, visits to the home, and interviews with relatives and other

individuals who may have knowledge of the whereabouts of the child's parent.

- B. If the District identifies a person who claims to be a guardian, and one of more other persons also claim such a role, the Special Education Executive Director should immediately refer the matter of who is the lawful guardian of the child to the appropriate Family Court for expedited consideration. Pending the outcome of this proceeding, the District should appoint a surrogate parent for the child.
2. If no parent or guardian is found, the District appoints a surrogate parent for the child. The appointment is made within 3 days of determining that the parents cannot be found.
3. The District may appoint a surrogate parent at the request of a parent, if the parent can demonstrate that he or she is not able to protect the rights of the child due to extraordinary circumstances. For example, the distance between the parent's residence and the child's location may be so great that the parent's participation in the educational decision-making process would be substantially impaired.

**Do all special education students in state custody require surrogate parents?**

No, once a foster parent or natural parent who has been acting as a surrogate parent meets the following criteria, the District issues an Affirmation of Acting as a Parent:

1. The foster or natural family member affirm that the student has had a relationship with him or her for **at least 6 weeks**;
2. The foster or natural family member affirm that the state agency (OCS or DJJ) has not indicated intent to change the student's placement in the foreseeable future;
3. The foster or natural family member indicate a willingness to continue making special education decisions for the student while the student is an eligible special education student residing in the Anchorage School District;

**Affirmations are received and confirmed by the ASD Surrogate Parent program.**

**Who issues an Affirmation of Acting as a Parent and how is that process accomplished?**

The Surrogate Parent Program audits surrogate parent appointments regularly throughout the school year. Once a surrogate parent appointment appears to meet the criteria set above, the surrogate parent is contacted to determine whether he or she wishes to be affirmed as "acting as a parent". Once the Affirmation is completed, agency representatives (social worker or probation officer) and school teams are notified of the change. The student's file in the IEP program carries a notation that the person is "acting as a parent" for future reference by later IEP team members.

**How does "guardianship" differ from a person "acting as a parent"?**

A Guardian is a private individual who has been given the legal custody of a child by a court.

**Is the student's social worker or probation officer also his or her surrogate parent?**

Absolutely not – actually neither of these individuals can be the student’s surrogate parent as they have a conflict of interest.

**What is a CASA?**

A Court Appointed Special Advocate (CASA) is a volunteer, trained by the Office of Public Advocacy (OPA) Alaska CASA Program, to represent the best interests of abused and neglected children in court.

**What is a GAL?**

A GAL is assigned to a case when there is abuse, neglect, abandonment or family disputes are involved. A GAL is assigned so that the best interests of the child are looked after. The Guardian Ad Litem does independent interviews with those persons that interact with the family i.e. Doctors, police officers, therapists, religious leaders, teachers, etc.

**Can a parent request a student be appointed a surrogate parent?**

A parent or legal guardian requests a district to appoint a surrogate parent for the child. The parent who requests that a surrogate be appointed has the right to continue to receive prior written notice. Parents must be informed that their request for a surrogate parent appointment is voluntary and may be revoked at any time.

**How quickly can a surrogate act on a student’s behalf?**

It is important to note that a student’s placement cannot be changed within 10 days of a surrogate appointment. A newly appointed surrogate can make decisions such as the release of records or the written consent for evaluation before the 10 day period lapses.

**How quickly can a surrogate parent be appointed?**

Request for a surrogate parent to be appointed should be made as soon as the need is ascertained. Surrogates cannot be appointed within a few hours or days prior to a meeting. When a child is in OCS custody, the child’s social worker or probation officer will provide information about the child’s custody status to the school district.

Appointment of a surrogate parent requires five days to be processed by the Special Education Department. On average, a volunteer or suitable candidate can be located and trained within 5 days. A meeting should not be scheduled until a surrogate parent has been appointed. No IEP decision is considered valid without full and effective participation of the surrogate parent.

**Can a child’s placement change before appointment of a surrogate parent?**

The educational placement of a child who has been identified by the District as entitled to a surrogate parent shall not be changed until 10 days after appointment of a surrogate parent.

**Who can serve as a surrogate parent?**

A person is qualified to serve as a surrogate parent when the District determines the person meets the following qualifications:

1. Has no personal or professional interest that could conflict with the interest of the child.
2. Is not employed by a public agency that is involved in the education or care of the child. (A person who otherwise qualifies as a surrogate parent is not considered an employee of a district solely because he is paid by the District to serve as a surrogate parent.)
3. Has knowledge and skills that assure adequate representation of the child.
4. In general, is familiar with the State and Federal requirements for special education and with the nature of the child's disability.
5. Has participated in a training program for surrogate parents and conducted by the District.

**Note:** An employee of a nonpublic agency that only provides non-educational care for the child and who meets the above standards may serve as a surrogate parent if all other requirements above are met.

**How does DEED define "conflict of interest"?**

1. In selecting the surrogate parent the District does not select any person from the list who:
  - A. Is an employee of an agency assigned as the child's guardian, or an employee who exercises the rights of a guardian as a part of his job with the State;
  - B. Is employed by an agency involved in the care and treatment of the child;  
or
  - C. Has interests that are in conflict with the interests of the child.
2. A conflict of interest exists for a person as a surrogate parent if:
  - A. the person might benefit personally or professionally from decisions regarding the child;
  - B. The person may be required to make decisions regarding the child that might affect policy in which the individual has a personal or professional interest; or
  - C. The person is not able to faithfully represent the child because of an institutional bias or interest.

**In the past, ASD employees who served as foster parents were not allowed to serve as surrogate parents, are they now allowed to serve as surrogate parents?**

ASD employees who serve as foster parents for special education students are not eligible to serve initially as surrogate parents due to state guidelines. However, once the ASD employee has been a foster parent for sufficient time and meets all other criteria, the employee may qualify to be acknowledged as "Acting as a Parent". In such situations, the employee can make special education decisions as natural parents would.

However, if a special education student does not live with a foster parent or natural family member and is in need of a surrogate parent ASD employees remain precluded from being appointed surrogate parents (as do OCS or DJJ employees or other professionals who have a role in the education or treatment of the student).

**What happens after a surrogate parent is appointed?**

Upon determination that the individual selected meets the criteria, the District immediately makes the appointment. The District, within 5 days of determining the appointment of a surrogate parent, provides written notice of appointment to the individual so selected and shall record such appointment in the child's record. The ASD Surrogate Parent Program notifies the school contact, OCS social worker, DJJ probation officer and sends notice to Special Education records.

**What are the responsibilities of a surrogate parent?**

During his or her appointment, a surrogate parent is expected to exercise all of the rights, responsibilities and authorities of a parent, including:

1. The right to receive notice of actions proposed or refused by the District;
2. The right to provide or withhold consent requested by the District;
3. The right to participate in the development, review and revision of the IEP and the eligibility and placement decisions;
4. The protection of the confidentiality of personally identifiable information collected, used or maintained by the District;
5. The conduct of an independent educational evaluation of the child; and
6. The initiation and conduct of due process hearings.

**How long does a surrogate parent continue to act as surrogate parent?**

A surrogate parent continues to serve unless the District terminates the appointment prior to the expiration of the agreed upon period by request of the surrogate parent or because the District determines that:

- A. The natural or adoptive parent or guardian has been located; or

- B. The surrogate parent no longer meets the standards for a “qualified” surrogate parent set forth above and, thus, such termination is necessary to protect the rights of the child.
- C. The student is no longer enrolled in the ASD.
- D. The surrogate parent requests the appointment be terminated.
- E. The student has turned 18 years of age and has not been adjudicated incompetent by a court.
- F. The student is no longer receiving special education or 504 services.

**How does ASD end the appointment of a surrogate parent?**

If a surrogate parent is no longer considered “qualified” by the District, the District notifies the individual in writing and informs him or her of the right to initiate a due process hearing to challenge the decision to terminate the appointment. Notification of the end of appointment is sent to the surrogate parent, OCS, DJJ and the special education file.

If a due process hearing is initiated, the person whose term is terminated or whose appointment is not continued, remains the surrogate parent until an administrative or judicial proceeding is completed.

**Does the surrogate parent appointment of a foster parent or natural family member get terminated if the surrogate converts to “Acting as a Parent”?**

It depends on the reason for the conversion to “Acting as a Parent”. If a volunteer surrogate parent makes special education decisions for a student in the foster care of an ASD employee, and the employee later qualifies as “Acting as a Parent”, the volunteer’s surrogate parent appointment is terminated.

Otherwise, if the surrogate parent is the same person who will be acknowledged as “Acting as a Parent”, then the surrogate parent appointment is not terminated, it is merely converted to “Acting as a Parent”.

**How are surrogate parent appointments and those “Acting as a Parent” monitored by ASD?**

These appointments and acknowledgements are audited by the Surrogate Parent Program at least twice yearly, and more often if a school team or agency representative indicates that the student’s living situation or custodial arrangement has changed.