

Training for New Staffing Specialist



**Orange County
Public Schools**

Topics for Today

- Introduction to Surrogate Parent Statutory and Regulatory Citations
- Why do we need Surrogate Parents?
- The Referral Process
- Responsibilities and duties of the Surrogate Parent
- Discharge of Surrogate Parent
- Questions and Answers



Surrogate Parent Laws



Surrogate Parent Statutory and Regulatory Citations

§300.519 Surrogate parents

(a) General. Each public agency must ensure that the rights of a child are protected when

- (1) No parent (as defined in Sec. 300.30) can be identified
- (2) The public agency, after reasonable efforts, cannot locate a parent
- (3) The child is a ward of the State under the laws of that State
- (4) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6))

Rule 6A-6.0333, Florida Administrative Code

A **surrogate parent** is an individual appointed to act in the place of a parent in educational decision-making and in safeguarding a student's rights under the **Individuals with Disabilities Education Act and Section 39.0016, F.S.**, when no parent can be identified; the student's parent, after reasonable efforts, cannot be located by the school district; the student is a ward of the State under State law; the student is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 1143a(6)); or a court of competent jurisdiction over the student has determined that no person has the authority, willingness, or ability to serve as the educational decision maker for the student without judicial action.

Why do we need surrogates?

Parents of children with disabilities are important members of a decision making team, which decides the appropriate educational program for their child. Sometimes for various reasons there is no one to fill this important role. **The Individuals with Disabilities Education Act (IDEA)** requires that states train and provide educational surrogates, an impartial individual, to fill the role of a parent.



SURROGATE PARENT QUALIFICATIONS

In accordance with s. 39.0016(3)(b)2., F.S.,

- **Be a Citizen of the United States**
- **Be a resident of the state of Florida**
- **Be at least 18 years old**
- **Not work for the local school board or any agency involved in the education or care of the child**
- **Have no interest that conflicts with the interest of the child**
- **Have knowledge, skills and experience needed to adequately represent the child**



Finger Printing



Jessica Lunsford Act

- The Jessica Lunsford Act was enacted on **September 1, 2005** in response to the tragic abduction and death of Jessica Lunsford
- This law affects a vendors' business operations and employees if they are under contract with Orange County Public Schools
- If Surrogate Parent already has a badge with another school district in the state of Florida see the website below for instructions

➤ <https://www.ocps.net/cms/one.aspx?pagelid=99274>

What Constitutes a Conflict of Interest?

- A qualified applicant for surrogate parent may **not** be an **employee** of the local school board
- Florida Department of Education (FDOE)
- Florida Department of Children and Families (DCF)
- A community-based care provider
- A public or private agency involved in the education or care of the child
- A **qualified surrogate** parent should have no interest that conflicts with the interest of the child represented

Why can't the school or care facility take care of this responsibility?

In the past, educational decisions about students with disabilities who did not have parental representation were made jointly by the school and the agency legally responsible for the student. There were two main problems with this:

1. Neither party could be completely objective in representing the student's interests because of the necessity of **balancing financial constraints** with the student's needs.
2. Neither party could spend time learning all that was necessary about one student.
3. A surrogate is not bound by either of these constraints.

Can a Guardian ad Litem serve as a Surrogate Parent?

Yes. The purpose of the **Florida Guardian ad Litem Program** is to advocate for the best interests of children who have allegedly been abandoned and who are involved in court proceedings.

Guardian ad litem appointees are volunteers, and if they meet the legal criteria regarding qualifications and no conflict of interest, they may serve as surrogate parents. **In fact, the school district superintendent must first consider the child's guardian ad litem** when appointing a surrogate parent, if they have not previously appointed a surrogate parent.

(s. 39.0016(3)(b)3., F.S.)

Foster Parent

A foster parent (**excluding therapeutic foster parents**) may act as a parent and make educational decisions for the child (s. 39.0016(b)2., F.S.); however, if the foster parent is **unwilling or unable** to represent the child's educational interests, a surrogate parent may need to be appointed. (s. 1001.21(5))

Note: Natural parents retain their rights with regard to the education of their children unless those rights are expressly abdicated. Therefore, a surrogate parent should be appointed only in the limited circumstances permitted by the IDEA and its regulations.



The Referral Process

OCPS School Appointment Procedures

1. When a surrogate parent request form is submitted or faxed to our office, it is date stamped and the students' information is entered into the composite list of requests.
2. The District School Social Worker will then review the form and contact the Department of Children and Families (DCF), for determination of parental rights and the child's foster care status.
3. Once we have input from DCF, a surrogate parent will be assigned.

School Appointment Procedures cont.

4. After an assignment is made, an agreement letter is mailed to the surrogate parent who has volunteered their services.
5. The request form, and one copy of the agreement letter, will be placed by alpha, in the current year Surrogate Parent Book.
6. The District Social School Worker will email and call the school with the name, address & phone number of the surrogate parent.
7. When the signed agreement is returned, it will be placed in the Surrogate Parent Book.



Responsibilities and Duties

Responsibilities of the Surrogate Parent

A surrogate parent is only responsible for representing the child when decisions about his or her special education program are made concerning:

- Identification of the need for the child to receive special education services
- Evaluation to determine students individual needs

Responsibilities of the Surrogate Parent cont.

- Developing of his or her Individualized Education Plan (IEP), including placement
- Ongoing reviews of educational progress
- Agreement or disagreement with the school's educational proposal

The Surrogate Parent Duties

- Confer with the student's teacher (s) before the IEP meeting for the student; **(if a lawyer then through the district office)**
- Review the student's file for pertinent information such as IEP's, evaluation results, teacher observations
- Attend the parent-teacher conferences to gather information about student progress
- Meet with the student at school to discuss their interests, preferences and perspectives
- Develop an outline of **pertinent questions**

The Surrogate Parent Duties cont.

- Listen and ask questions at meetings and whenever more information is needed
- Focus on the child's needs, abilities, and goals
- If the child is a ward of the state, talk with the child's county case manager about his or her educational history

The Surrogate Parent Duties cont.

- Ask the school to make copies of school records for you
- Visit the class to observe the child and later talk with the teachers
- **Follow school procedures to make an appointment for the observation**
- Make certain that teachers, therapists, supervisors, and other professionals involved with the child know that they are acting as the child's surrogate parent (as well as being his or her foster parent, if this is the case)

Confidentiality



- Surrogate parents have access to the child's school records that will contain confidential information
- They also will receive confidential information while talking with teachers and county social workers
- It is required to use this information with care and discretion and respect the privacy of the child

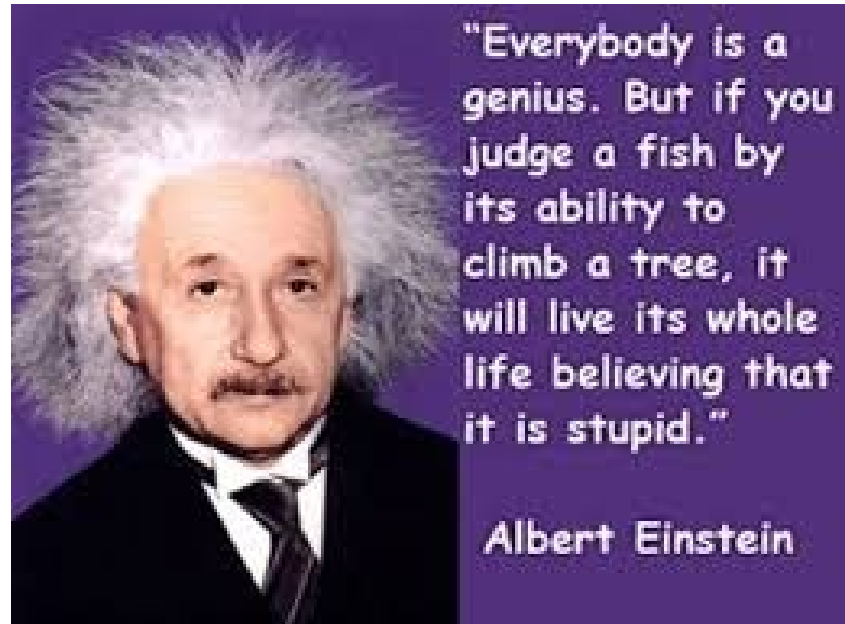
What kinds of records are parents and educational surrogates allowed to see?

- **The Family Educational Rights and Privacy Act (FERPA) covers all "records, files, documents and other material which contain information directly relating to a student", and which are maintained by an educational agency, such as an elementary school, an office of a school district, or university**
- The type or location of the records does not matter:
 - Discipline folders
 - Psychological reports
 - Health files
 - Grade reports
 - Other records found in a cumulative folder are all covered



Gifted and Toddlers

- **Since** programs for **gifted** students are also part of ESE they follow the same Surrogate Parent Process



RIGHTS, RESPONSIBILITIES, AND LIMITS

- Surrogate parents have the same procedural safeguards that parents do
- There are three basic rights that go hand-in-hand to safeguard the role of the parent or surrogate parent in the ESE process:
 1. The right to receive notice
 2. The right to participate
 3. The right to give consent



Liability

- A person appointed to act as a surrogate for a child in Florida public school is immune from any liability for any civil damages arising from any act or omission in representing the child in any decision related to the child's education
- This immunity does not apply to intentional conduct, wanton and willful conduct or gross negligence



Discharge of a Surrogate Parent


- The child graduates from high school
- The child is no longer eligible for ESE services
- The child's legal guardian is now able to carry out the role of parent
- The appointed surrogate parent cannot or no longer wants to represent the child
- The child moves too far away from the surrogate parent.
- The school district superintendent determines that the surrogate parent is no longer able to adequately represent the child




Questions and Answers

Q: Do surrogate parents have a choice in the selection of the child?






A: Yes. For example, surrogates may request assignment to a child with a certain disability or in a certain age group.




Q: Do all foster children need surrogate parents?





A: No. Only when the natural or adoptive parents' authority to make educational decisions on the child's behalf has been extinguished under state law, might a foster child need representation by a foster or surrogate parent at school. When parental rights are terminated, the child is a "ward of the state".


Long term foster parents may be considered the "parent", so in this case, no surrogate needs to be appointed.




Q: Are a surrogate parent's activities evaluated?

**I'M
WATCHING
YOU**






A: Schools are responsible for monitoring the activities of each surrogate parent to make sure that he or she is fulfilling the duties as set forth by state and federal rules.




Q: Who pays the legal fees when the surrogate parent initiates due process proceedings against the local education agency?





A: It is the responsibility of the local education agency to provide contact information to the surrogate parent of *pro bono* legal services, for example Legal Aid/Low Cost Attorneys. If the surrogate parent prevails, then the local education agency is responsible for the reimbursement of the surrogate parent's legal fees.




Q: Can a surrogate parent be assigned to represent a student over the age of 18?






A: In Florida, students ages 18 through 21 are viewed as serving as their own parents.

Therefore, if the student is able to make their own decisions, a surrogate would not be necessary. Sometimes students over 18 are under legal guardianship. In this case, the guardian is the parent as identified by IDEA.




Q: Are there any records that a school can refuse to show parents or an educational surrogate?






A: Yes. A school can refuse to show you the following records: A teacher's or counselor's "personal notes"-these are notes that a school official makes for his or her own use. Personnel records of school employees are not allowed to be viewed by a surrogate parent.




Q: Can surrogate parents receive a stipend?






A: There is no requirement in Florida that a surrogate parent receive compensation: however, the school may choose to cover or offer payment for the expenses, such as mileage, of the surrogate parent.

Note: OCPS pays their Surrogates a \$50.00 stipend per IEP meeting.



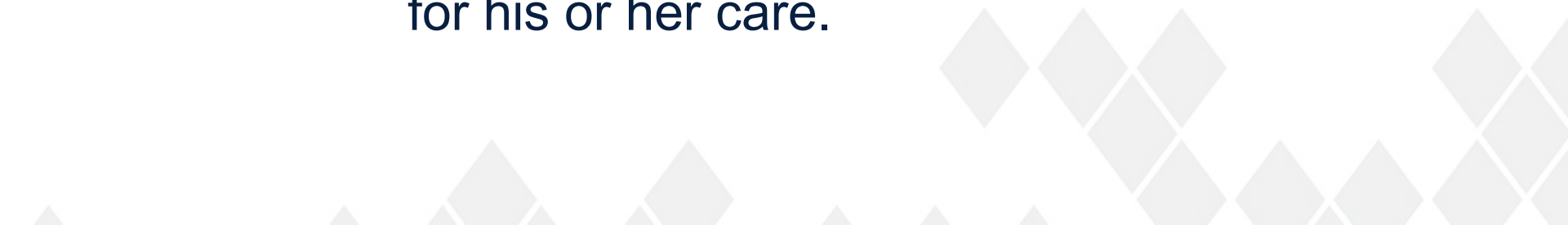
Q: What should a surrogate parent sign or not sign?





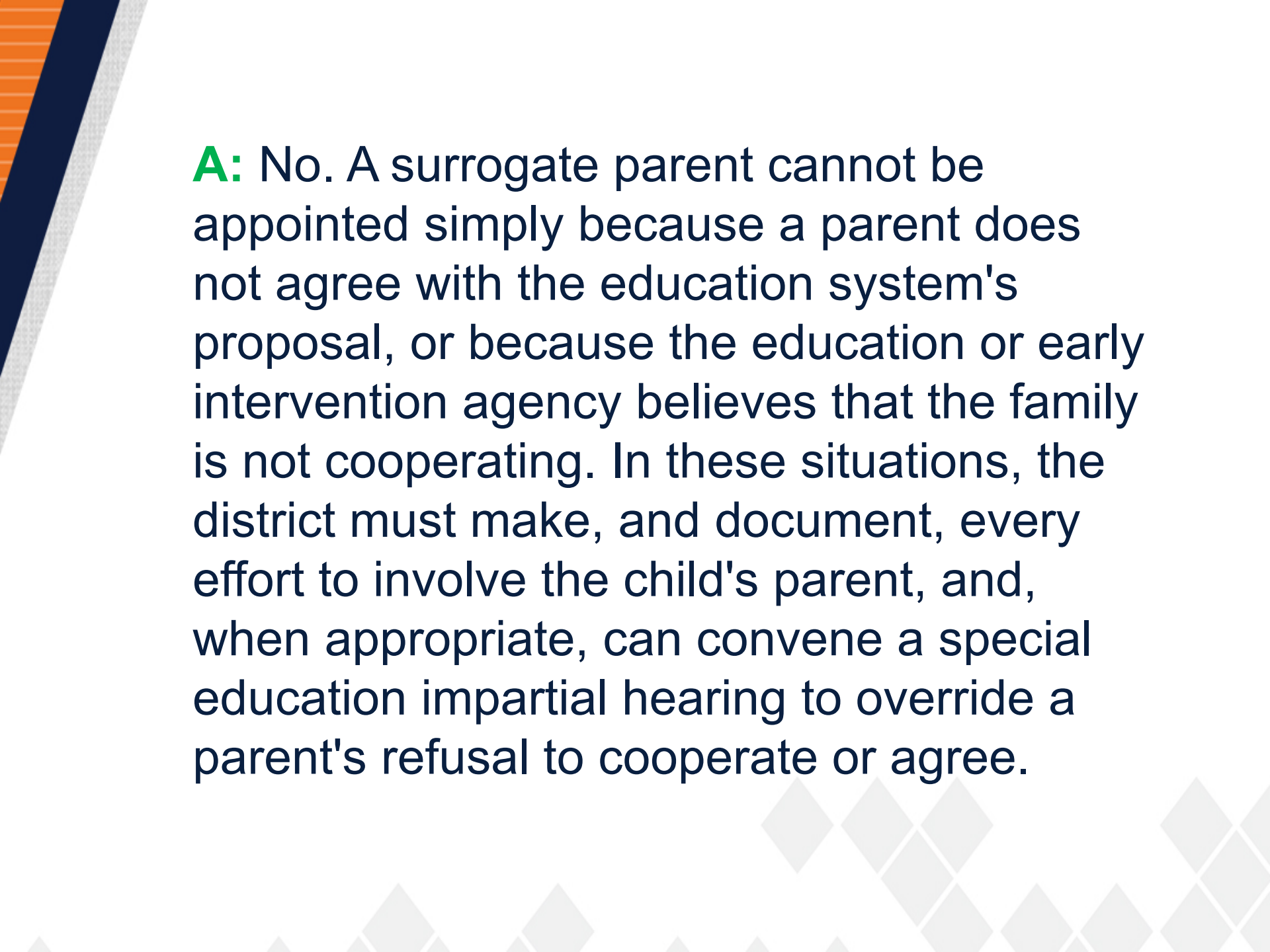
A: Surrogate parents will be asked to sign all the forms relating to the child's special education, including permission to evaluate and the IEP or EP. Consent should not be given to any proposal that seems inappropriate for the child's needs.

Permission for all other types of activities is given by the child's county caseworker, residential care provider, or other person responsible for his or her care.



Q: Can a surrogate parent be appointed for an "Uncooperative" parent?





A: No. A surrogate parent cannot be appointed simply because a parent does not agree with the education system's proposal, or because the education or early intervention agency believes that the family is not cooperating. In these situations, the district must make, and document, every effort to involve the child's parent, and, when appropriate, can convene a special education impartial hearing to override a parent's refusal to cooperate or agree.

MAKING A DIFFERENCE

- A Surrogate Parent can make an enormous impact in the lives of these special children. As advocates of their educational needs, they may be the difference between a child graduating or dropping out of school



Further Questions or Concerns

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