

First step: Review the current court order. Verify the status of parental rights of BOTH parents and the court-ordered plan for the student.

Biological or Adoptive parents are assumed to have educational decision-making rights unless:

- There is an Order of Termination of Parental Rights;
- The right of the biological or adoptive parents to make educational decisions is removed by a court order; or
- The right to make educational decisions is given to a specific person or persons through a court order.

Detailed documentation of all efforts to locate a student's parents is recommended when investigating the need for a special education surrogate parent.

- "Reasonable efforts" may include attempts to locate parents through phone calls, letters, certified mail with a receipt and a visit to the last known residence of the parents.
- In situations where the parent disagrees with an LEA's initial evaluation or placement intentions, the LEA may not circumvent the parent's due process rights by appointing a special education surrogate parent.

The LEA does NOT have the authority to appoint a special education surrogate parent where a student's parent is available or can be identified and located after reasonable efforts, but refuses, or is unable, to attend a meeting or otherwise represent the student.

When Do I Appoint a Special Education Surrogate Parent?

Step 1: Ensure that the rights of both the parent and student are protected.

Step 2: Request to review the current custody agreement between the parents or the current court order if the Department of Social Services (DSS) is involved. Do not assume anything.

Biological/ Adoptive Parent is Located

No Special Education Surrogate Parent Needed

If the biological or adoptive parent is located but chooses not to participate, a special education surrogate parent is not appointed. Both parents have equal rights to participate unless one or both parents' rights are terminated.

You Cannot Locate the Parent despite Reasonable Attempts

If the biological or adoptive parent cannot be located, a special education surrogate parent must be appointed. No special education surrogate parent needs to be appointed if a relative with whom child resides is willing to serve as "parent." If no one else can act as the "parent," a special education surrogate parent must be appointed.

Placement in Group or Foster Home

Review the current court order and court-ordered plan for the student. If biological or adoptive parents' rights have NOT been terminated, the parent continues to serve as parent. If parental rights have been terminated, the foster parent may serve as the "parent," if they are willing to do so. Employees of DSS or group homes **cannot** serve as "parent" or be appointed as a special education surrogate parent.

Placement in a Therapeutic Foster Home or Facility

Review the current court order and court-ordered plan for the student. If biological or adoptive parents' rights have NOT been terminated, the parent continues to serve as parent. If parental rights have been terminated, a special education surrogate parent must be appointed. Therapeutic foster parents, employees of DSS, and/or facility staff **cannot** serve as "parent" or be appointed as a special education surrogate parent.

- Any time parental rights have been terminated by the court, a special education surrogate parent is appointed unless another individual, who meets the definition of parent in NC 1500-2.24, can serve in that role.
- Employees of group homes, DSS, Mental Health, or the LEA, and therapeutic foster parents may not serve as the parent or be appointed as special education surrogate parents.

Request for the Determination of Need for a Special Education Surrogate Parent (SESP)

Please provide as much information as possible and forward this form to the Exceptional Children Department.

Child's name: _____

D.O.B.: _____

Social Security Number: _____

County of residence: _____

Agency/Service Provider: _____

School: _____

Child Living With: _____

Relationship to child: (circle one)

1. Natural or adoptive parent
2. Legal guardian or court appointed temporary guardian
3. Adult who accepts full legal responsibility for the child and with whom the child is living
4. Foster parent
(Agency Contact & Phone) _____
5. Other(Name and Phone): _____
6. Address: _____

Reason for Need of a SESP:

- Parent Unknown
- Parent Deceased
- Parent Unavailable (Geographic Whereabouts Unknown)
- Guardianship with State Agency or Official
- Child is Ward of the State and biological/adopted parent does not have educational Decision making rights.
- Review Court Order

Office Use Only

Reviewed By: _____ Date: _____

Determination: _____ Approved _____ Denied

_____ Court Order Attached

Reasons:

**Copy of Records Prepared for the Special Education Surrogate Parent to include:
Current IEP and all current evaluations (No more than 3 years old).**

Prepared By: _____

Date sent: _____