

# Riverside County Special Education Local Plan Area

## Surrogate Parent Requirements

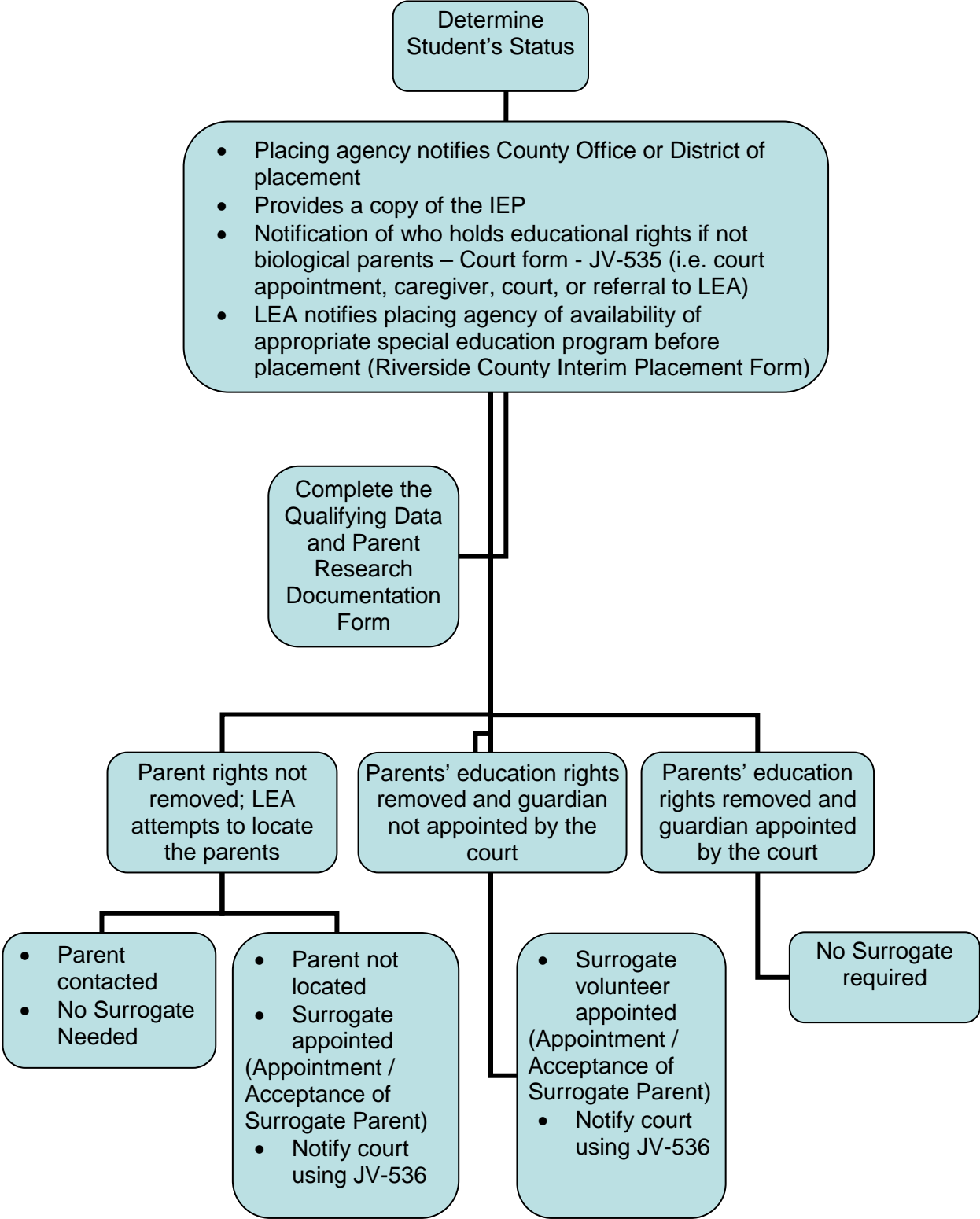
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- JV 535, Notification of Placement of Individual with Exceptional Needs in Licensed Children’s Institute or Foster Family Home
- JV 536, Notification to court regarding the appointment of the Surrogate Parent
- Educational Surrogate Parent Qualifying Data & Parent Search Documentation
- Educational Surrogate Parent Application
- Appointment/Acceptance of Surrogate Parent
- Acknowledgement of Training Completion
- Surrogate Parent Evaluation
- Roles and Responsibilities in the IEP Process Activity
- Flyer for Recruiting Surrogate Parents

The document is based on the laws and requirements regarding the appointment of Surrogate Parents. Included are all documents required for recruitment, training and monitoring.

# Surrogate Parent Appointment Flowchart



## Definition

A “surrogate parent” is an adult appointed by a local educational agency (LEA) or special education local plan area (SELPA) to represent a pupil (aged birth-21) for the purpose of their individualized education program (IEP) to ensure that the rights of the pupil to a free appropriate public education (FAPE) are protected when the biological parents can not be found or the courts have removed their educational rights and have not assigned them to another.

## Appointment of a Surrogate Parent

A LEA shall appoint a surrogate parent for a child in accordance with Section 300.519 of Title 34 of the Code of Federal Regulations under one or more of the following circumstances:

- (A) No parent (as defined in §300.30) can be identified;
- (B) The public agency, after reasonable efforts, cannot locate a parent;
- (C) The child is a ward of the State under the laws of that State;
- (D) 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))

A child may need an interim surrogate parent when he/she is initially placed in a SELPA in order to meet the requirements for an immediate educational placement while the status of location of the child's parent is researched.

These children may be living in:

- foster homes
- private group homes
- state hospitals or other health facilities
- correctional facilities
- residential treatment centers
- with other family members (such as grandparents)

Reasonable efforts to contact parents include, but are not limited to, the following measures:

- documented telephone calls
- letters
- certified letters with return receipts
- documented visits to the parents' last known address
- the placement of an agency notice of a court order that terminates parent rights

If the reasonable efforts described above fail to locate the parent or to obtain parent status notification from the placing agency, an interim surrogate parent appointment may be necessary. A surrogate parent shall be appointed not more than 30 days after the LEA determines that a student needs a surrogate parent (*California Government Code* Section 7579.5(a)). This appointment will facilitate timely IEP review, establish consent for special education assessment, or both.

If the student is not a ward or dependent, and if the LEA cannot determine that the student is in a home with an adult who is acting as a parent or who could be appointed as the surrogate parent, the LEA is advised to consider making a report of neglect or abuse to the child welfare agency in the county (*California Penal Code* sections 11165.7 and 11165.9).

## Process and Procedures

1. Notification of Placement of Individual with Exceptional Needs in Licensed Children's Institution or Foster Family Home
2. The courts appoint a specific person with the educational rights or generate a JV 535 requesting the district to appoint a surrogate parent
3. Review IEP to determine appropriate placement
4. Complete Riverside County SELPA Interim Placement Form
5. Complete Educational Surrogate Parent Qualifying Data and Parent Search Documentation
6. Appointment/Acceptance of Surrogate Parent
7. Notification to court regarding the appointment of the Surrogate Parent – JV 536

## Wards and Dependents of the Court

Under California law, there are both "dependent" children as well as children who are described as "wards" of the courts (*California Welfare and Institutions Code* sections 300, 601 and 602). A minor may be declared a ward of the court for habitual refusal to obey parents or guardians or truancy from school (*California Welfare and Institutions Code* Section 601). A minor may also be declared a ward for commission of a crime (*California Welfare and Institutions Code* Section 602). A "dependent" child may be one that is at risk of abuse or neglect by his or her parents (*California Welfare and Institutions Code* Section 300).

When a court decides that a minor is a ward or dependent, the court may limit the parent's educational rights (*California Welfare and Institutions Code* sections 361(a) and 726). If the court limits parental rights, it must issue an order clearly assigning those educational rights to another responsible adult. After limiting the parent's educational rights the court must use JV-535 (Appendix B) to document one of the following:

- appointment of an educational representative
- determination that the caregiver may make educational decisions
- referral to the LEA, or
- educational decisions made by the court with input from interested persons (*California Rules of the Court*, Rule 5.650(b)).

An educational representative is the responsible adult who holds the educational rights for a child when the parent's or guardian's educational rights have been limited by the court (*California Rules of the Court*, Rule 5.502(13)). The appointed educational representative has the same rights and responsibilities as a surrogate parent regarding special education. If the court cannot identify an educational representative and the child is or may be eligible for special education and related services, the court must refer to the LEA (*California Rules of the Court*, Rule 5.650(b)(2)).

- JV-535 and JV-536 (Appendix 2) must be served on the LEA no later than seven calendar days after the date of the court's order.
- The LEA must make reasonable efforts to assign a surrogate parent within 30 calendar days after the court's referral.
- If the LEA appoints a surrogate parent, it must send copies of the notice to the social worker or probation officer identified on JV-535.

- If the LEA does not appoint a surrogate parent within 30 days of receipt of the JV-535, it must, within the next five court days, notify the court on form JV-536 of its inability to appoint a surrogate parent and its continuing reasonable efforts to assign a surrogate parent.

Silence of the court on the issue means the parent's rights have remained intact. The LEA should be notified by the placing agency pursuant to *California Government Code* Section 7579.1 et seq.

When a child is placed by the juvenile court, determinations about residential placement are outside the scope of the IEP team. When residential placement for educational purposes is under consideration, conflicts of interest are improbable if the in-home care provider is advocating the change in placement. However, a conflict of interest could arise when the provider seeks to retain the child in the current placement since changing the residential placement of a child would mean a loss of income to the provider. Therefore, local "blanket" policies concerning conflicts of interest may be problematic regarding in-home care providers as educational parent representatives or surrogates. When substantial issues are likely to result in a change in residential placement are faced by the IEP team, it is suggested that the LEA review appointments to reflect conflict of interest concerns (*34 Code of Federal Regulations* Section 300.519(d)(i)(ii)), (*California Government Code* Section 7579.5 (i)(j)). Each case should be determined on its own merits.

### **Unaccompanied Homeless Youth**

The term "homeless children and youths" means individuals who lack a fixed, regular, and adequate nighttime residence and includes:

- children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
- children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and migratory children who qualify as homeless for the purposes of this part because the children are living in circumstances described in above bullet points. (*42 United States Code* Section 11434a(2))

The term "unaccompanied youth" is defined as a youth not in the physical custody of a parent or guardian (*42 United States Code* Section 11434a(6)).

A temporary surrogate parent may be appointed for a child who is an unaccompanied homeless youth. Such temporary surrogates may include appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs. These temporary surrogates may be employees of the State Education Agency (SEA), the LEA, or any other agency that is involved in the education or care of the child until a surrogate parent can be appointed that meets all of the appointment requirements.

## **When a Surrogate is Not Needed**

1. The parent's educational rights pertaining to the student have not been removed by a court
2. The parent maintains educational rights and has appointed their own educational representative for their child
3. A court has appointed a guardian for the student (Court Minute Order or JV-535)
4. The student was voluntarily placed in a residential facility
5. The student is 18 years of age, or older, and he/she does not have a conservator or guardian, regardless of the individual's functioning levels
6. The student is an emancipated minor
7. The student is married

If the child has a legal guardian, then a surrogate parent is not needed. Also if someone (e.g., such as a grandparent) is "acting" as the child's parent at the request of the natural parent, this child does not need a surrogate parent.

## **Who to Appoint as a Surrogate Parent**

Individuals who may serve as surrogate parents include, but are not limited to, foster care providers, retired teachers, social workers, and probation officers, who are not employees of the State Department of Education, the local educational agency, or any other agency that is involved in the education or care of the child. A public agency authorized to appoint a surrogate parent under this section may select a person who is an employee of a nonpublic agency that only provides non-educational care for the child and who meets the other standards of this section. An individual who would have a conflict of interest, for purposes of this section, means a person having any interests that might restrict or bias his or her ability to advocate for all of the services required to ensure that the child has a free appropriate public education (*California Government Code Section 7579.5(j)(1)*).

A person who otherwise qualifies to be a surrogate parent under this section is not an employee of the LEA solely because he or she is paid by the LEA to serve as a surrogate parent (*California Government Code Section 7579.5(j)(2)*).

When appointing a surrogate parent, the LEA shall, as a first preference, select a relative caretaker or foster parent if any of these individuals exists and is willing and able to serve. If none of these individuals are willing or able to act as a surrogate parent, the LEA shall select the surrogate parent of its choice (*California Government Code Section 7579.5(b)*). If the child is moved from the home of the relative-caretaker or foster parent who has been appointed as a surrogate parent, the LEA shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the child.

*California Education Code* Section 56028 uses slightly different language. "Parent" includes a biological or adoptive parent of a child, A foster parent if the authority of the biological or adoptive parents to make educational decisions on the child's behalf specifically has been limited by court order, a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child, including a responsible adult appointed for the child, or a person acting in the place of a natural or adoptive parent including a grandparent, step-parent, or other relative with whom the child lives. "Parent" also includes a parent surrogate. Except, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified to act as a parent, shall be presumed to be the

parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child. Also, if a judicial decree or order identifies a specific person or persons to act as the "parent" of a child or to make educational decisions on behalf of a child, then that person or persons shall be determined to be the "parent" for purposes of this part. "Parent" does not include the state or any political subdivision of government and a non-public, non-sectarian school or agency under contract with a local educational agency for the provision of special education or designated instruction and services for a child (*California Education Code Section 56028(b)*).

It should be noted that a LEA's authority to appoint a surrogate may be exercised only when the parent(s) cannot be located or parental rights have been terminated. If the location of the parent(s) is known but the parent(s) fail or refuse to participate in the IEP meeting, the LEA may need to implement a due process hearing to obtain approval for the LEA's offer of FAPE. In this case, the LEA does not need a surrogate parent.

### **Conservatorship**

In some situations, a student over the age of 18, who is legally an adult, may have a conservator who will continue to act on the student's behalf in regard to special education and related services. The term "conservator" refers to a person given legal authority and responsibility by the superior court to make decisions for an adult person, married minor, or married minor whose marriage has been dissolved who is not competent to make such decisions or to give informed consent. Duly appointed conservators can be identified by a document called "Letters of Conservatorship" issued by the court, pursuant to *California Probate Code*, Section 1800 et seq. The "Letters of Conservatorship" define the scope of the conservator's power over the person and property of the incompetent adult.

### **Foster Parents**

Foster parents and care providers who live with the child in small foster family homes have the usual rights of parents to participate in educational decisions, unless a court expressly excluded them from such decisions in a written order (*California Education Code Section 56055*). Even if so excluded, these persons continue to have caretaking responsibilities related to the non-special education portion of the child's school program; for example, assurances of regular school attendance, consent for field trips, and immunizations.

State law allows these in-home care providers to be appointed except when there is a conflict of interest (*California Government Code Section 7579.5(i)(j)*). An additional factor to consider is that monies received by foster parents and small foster family home care providers are not regarded by the California Department of Social Services (DSS) as payment for contracted services but as reimbursements for expenses incurred on the child's behalf. In-home providers are not likely to have conflicts of interests unless changes in residential placement are under consideration.

## **Working with Surrogate Parents**

Each LEA will recruit and train its own surrogate parents. An LEA administrator will maintain an updated master list of trained surrogate parents. The use of surrogate parents by another LEA will occur only by mutual agreement of both LEA administrators.

### **Recruiting Surrogate Parents**

The following resources are recommended for locating potential surrogate parent volunteers:

- Local school parent associations
- Community Advisory Committee (CAC) members

- Retired teachers or other retired school employees
- Rotary, Lions, Kiwanis, and other community/service groups
- Big Brothers, Big Sisters, foster grandparents
- American Association of University Women (AAUW)
- University graduate students
- Parents/foster parents of other special education students
- Relatives
- In-home care providers

A flyer is available to share with these agencies to get information out regarding the need for surrogate parents and the expectations of the position. The Riverside County SELPA has developed an application form so interested individuals may apply to become a surrogate parent (See Appendix 2).

Reasonable efforts should be made to ensure that persons representing all sections of the community and all racial, ethnic, linguistic, and economic subgroups within the community are recruited and made available for appointment as educational representatives (*California Government Code Section 7579.5(e)*). When cultural matches are not possible in spite of focused recruitment efforts, it is helpful to include information about cultural awareness when training individuals to become surrogate parents.

It is suggested that the following procedures be considered:

- Match the student's needs to the most appropriate volunteer in the selection of the most appropriate potential surrogate parent
- Introduce the student and the potential surrogate parent
- Obtain a written agreement with the surrogate parent to serve the specific student in his or her IEP process and to maintain the student's and the family's rights to confidentiality
- Inform all involved persons and agencies responsible for the residential care and education of the student of the surrogate parent's appointment

### **Expectations of Surrogate Parents**

The surrogate parent shall serve as the child's parent for the purpose of the IEP process and shall have the rights relative to the child's education that a parent has under Title 20 (commencing with Section 1400) of the United States Code and pursuant to Part 300 of Title 34 (commencing with Section 300.1) of the Code of Federal Regulations. The surrogate parent may represent the child in matters relating to special education and related services, including the identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program (IEP), and in all other matters relating to the provision of a free appropriate public education (FAPE) of the child.

Notwithstanding any other provision of law, 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 services pursuant to this chapter. The surrogate parent may sign any consent relating to individualized education program purposes (*California Education Code Section 56050*).

The surrogate parent is **required to meet** with the child at least one time. He or she may also meet with the child on additional occasions, attend the child's IEP meetings, review the child's educational records, consult with persons involved in the child's education, and sign any consent relating to IEP purposes. As far as practical, a surrogate parent should be culturally sensitive to his or her assigned child. The surrogate parent shall comply with federal and state



law pertaining to the confidentiality of student records and information and shall use discretion in the necessary sharing of the information with appropriate persons for the purpose of furthering the interests of the child. The surrogate parent may resign from his or her appointment only after he or she gives notice to the local educational agency (*California Government Code* Section 7579.5(d-f)).

Federal law mandates that the surrogate parent not have a conflict of interest (34 *Code of Federal Regulations* Section 300.519(d)(2)(ii)). Some factors to consider are whether the volunteer:

- is employed by the state education agency, the LEA or any agency involved in the education or care of the student;
- holds a position that might restrict or bias his or her ability to represent the student's educational needs;
- holds a position that might subject the volunteer to administrative influence or reprimand for acting as the student's educational representative; and/or,
- has interests that might restrict or bias his or her ability to advocate for all the services required to ensure a free appropriate public education for an individual with exceptional needs, as defined in *California Government Code* Section 7579.5(i).

## **Surrogate Parent Rights**

Surrogate Parents have the right to:

1. Inspect and have a copy of all of the child's educational records.
2. Request changes with inappropriate or inaccurate information contained in the student's records.
3. Be informed about assessment procedures, tests, and all results.
4. Seek an independent assessment if he/she believes that the school's assessment methods and/or results were inappropriate.
5. Participate fully in the planning of the student's IEP.
6. Receive information about available special education programs.
7. Question the appropriateness of the student's educational program.
8. Decide if a proposed special education placement and program is appropriate for the child, indicating the decision by either signing or refusing to sign the IEP.
9. Talk with people involved with the student's education and receive both regular progress reports and routine communications.
10. Review and make decisions on any proposed changes in the student's educational program.
11. Request a parent/school conference, new evaluation, or planning meeting when necessary.
12. Have an outside person and the student attend any meeting, if appropriate.
13. Be notified in writing when the school proposes any of the following:
  - Assessment of the student
  - Changing the student's placement

- Changing the student's IEP
  - Calling an educational planning meeting
14. Receive information from the school about free or low cost legal services in the SELPA that might be needed for legal guidance in performance of surrogate parent duties.
  15. Initiate due process proceedings if needed.
  16. Be informed if any due process proceedings have been initiated.
  17. Receive information about all other state and local agencies that provide services to special education students.
  18. The surrogate parent and the LEA appointing the surrogate parent shall be held harmless by the State of California when acting in their official capacity except for acts or omissions that are found to have been wanton, reckless, or malicious (*California Government Code Section 7579.5(l)*).

### **Monitoring of Surrogate Parents**

The local educational agency shall terminate the appointment of a surrogate parent if the person is not properly performing the duties of a surrogate parent or the person has an interest that conflicts with interests of the child entrusted to his or her care (*California Government Code Section 7579.5(h)*). Individuals, who would have a conflict of interest in representing the child, as specified under federal regulations, may not be appointed as a surrogate parent.

The surrogate parent may represent the child until:

- the child is no longer in need of special education,
- the minor reaches 18 years of age, unless the child chooses not to make educational decisions for himself or herself, or is deemed by a court to be incompetent,
- another responsible adult is appointed to make educational decisions for the minor,
- or the right of the parent or guardian to make educational decisions for the minor is fully restored (*California Government Code Section 7579.5(k)*).

The Riverside County SELPA has an evaluation form to assist districts with the monitoring of the surrogate parent.

### **Interaction with Surrogate Parent**

Once a surrogate parent is appointed, it is important for the non-educational agencies to understand the role of the surrogate parent and facilitate appropriate interaction with the student. The placing agency worker remains responsible in all other aspects of the casework. The foster care provider remains responsible for providing day-to-day supervision, care, and services as agreed on with the placing agency. Since each agency is responsible for developing appropriate plans for the child and each may have a different perspective regarding the child, this relationship is potentially problematic and extremely critical. It is advised that LEAs develop working agreements with non-educational agencies that will enable surrogate parents to expeditiously receive vital information.

As long as the minor remains placed within the appointing SELPA or LEA and the surrogate parent appointment has not been withdrawn, it is the responsibility of the surrogate parent to participate in educational planning for the student. A student with a disability who is over the age of 10 and who has been removed from home pursuant to Section 300, 601, or 602 of the *Welfare and Institutions Code*, shall be included in the team if a surrogate parent has been appointed to represent his or her interests. This does not apply if a qualified medical or mental

health professional that is treating the individual provides the district, special education local plan area, or county office with a written opinion that participation on the team would be harmful to the individual (*AB 2015*).

Since a surrogate appointment is contingent on a child's eligibility for special education services, the surrogate parent's appointment lapses when an LEA no longer has the responsibility to provide FAPE to a student who is represented by a surrogate parent. For example, if a child ceases to be a resident of a particular LEA, the new LEA of residence would be obligated to provide FAPE. The sending LEA, when terminating the surrogate parent appointment, should notify the new LEA that a surrogate parent was previously appointed, so that the former surrogate parent may provide important information concerning the child's educational needs to the new LEA and any new surrogate parent that may be appointed.

## **Training Surrogate Parents**

The Riverside County SELPA has developed a PowerPoint presentation to assist LEAs with training surrogate parents.

### Objectives of the Surrogate Parent Training

1. Examine basic roles, rights, responsibilities, qualifications, qualities of surrogate parents.
2. Develop an awareness of the federal and state laws and regulations which safeguard the rights of children with disabilities and their surrogate parents.
3. Develop an awareness of the IEP process.
4. Examine the role and responsibilities of surrogate parents in the IEP process.
5. Discuss techniques for effective surrogate parents and student involvement in the IEP process.

At the end of the training the participants will receive an Acknowledgement of Training Completion Form that they can use to prove they have attended and completed the Riverside County SELPA Surrogate Training.

### Training Forms

- Flyer for Recruiting Surrogate Parents
- Educational Surrogate Parent Application
- Acknowledgement of Training Completion
- Surrogate Parent Evaluation

### Surrogate Parent Training Materials:

- Training PowerPoint, "Surrogate Parent: Standing in for the Parent - An Educational Training Program"
- Surrogate Parent Trainer's Guide
- Riverside County SELPA Individual Education Program (IEP) Forms – download current copies from [www.rcselpa.org](http://www.rcselpa.org)
- Riverside County SELPA Procedural Safeguards - download current copies from [www.rcselpa.org](http://www.rcselpa.org)
- Roles and Responsibilities in the IEP Process Activity

To obtain a copy please contact the Riverside County SELPA office at (951) 490-0375.

Approved by Coordinating Council 9/19/2008; Revised 3.13.15

## Appendix 1: Government Code

7579.5. (a) In accordance with Section 1415(b)(2)(B) of Title 20 of the United States Code, a local educational agency shall make reasonable efforts to ensure the appointment of a surrogate parent not more than 30 days after there is a determination by the local educational agency that a child needs a surrogate parent. A local educational agency shall appoint a surrogate parent for a child in accordance with Section 300.519 of Title 34 of the Code of Federal Regulations under one or more of the following circumstances:

(1) (A) The child is adjudicated a dependent or ward of the court pursuant to Section 300, 601, or 602 of the Welfare and Institutions Code upon referral of the child to the local educational agency for special education and related services, or if the child already has a valid individualized education program, (B) the court specifically has limited the right of the parent or guardian to make educational decisions for the child, and (C) the child has no responsible adult to represent him or her pursuant to Section 361 or 726 of the Welfare and Institutions Code or Section 56055 of the Education Code.

(2) No parent for the child can be identified.

(3) The local educational agency, after reasonable efforts, cannot discover the location of a parent.

(b) When appointing a surrogate parent, the local educational agency, as a first preference, shall select a relative caretaker, foster parent, or court-appointed special advocate, if any of these individuals exists and is willing and able to serve. If none of these individuals is willing or able to act as a surrogate parent, the local educational agency shall select the surrogate parent of its choice. If the child is moved from the home of the relative caretaker or foster parent who has been appointed as a surrogate parent, the local educational agency shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the child.

(c) For purposes of this section, the surrogate parent shall serve as the child's parent and shall have the rights relative to the child's education that a parent has under Title 20 (commencing with Section 1400) of the United States Code and pursuant to Part 300 of Title 34 (commencing with Section 300.1) of the Code of Federal Regulations. The surrogate parent may represent the child in matters relating to special education and related services, including the identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in all other matters relating to the provision of a free appropriate public education of the child. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the individualized education program including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to this chapter.

(d) The surrogate parent is required to meet with the child at least one time. He or she may also meet with the child on additional occasions, attend the child's individualized education program team meetings, review the child's educational records, consult with persons involved in the child's education, and sign any consent relating to individualized education program purposes.

(e) As far as practical, a surrogate parent should be culturally sensitive to his or her assigned child.

(f) The surrogate parent shall comply with federal and state law pertaining to the confidentiality of student records and information and shall use discretion in the necessary sharing of the information with appropriate persons for the purpose of furthering the interests of the child.

(g) The surrogate parent may resign from his or her appointment only after he or she gives notice to the local educational agency.

(h) The local educational agency shall terminate the appointment of a surrogate parent if (1) the person is not properly performing the duties of a surrogate parent or (2) the person has an interest that conflicts with the interests of the child entrusted to his or her care.

(i) Individuals who would have a conflict of interest in representing the child, as specified in Section 300.519(d) of Title 34 of the Code of Federal Regulations, shall not be appointed as a surrogate parent. "An individual who would have a conflict of interest," for purposes of this section, means a person having any interests that might restrict or bias his or her ability to advocate for all of the services required to ensure that the child has a free appropriate public education.

(j) Except for individuals who have a conflict of interest in representing the child, and notwithstanding any other law or regulation, individuals who may serve as surrogate parents include, but are not limited to, foster care providers, retired teachers, social workers, and probation officers who are not employees of the State Department of Education, the local educational agency, or any other agency that is involved in the education or care of the child.

(1) A public agency authorized to appoint a surrogate parent under this section may select a person who is an employee of a nonpublic agency that only provides noneducational care for the child and who meets the other standards of this section.

(2) A person who otherwise qualifies to be a surrogate parent under this section is not an employee of the local educational agency solely because he or she is paid by the local educational agency to serve as a surrogate parent.

(k) The surrogate parent may represent the child until (1) the child is no longer in need of special education, (2) the minor reaches 18 years of age, unless the child chooses not to make educational decisions for himself or herself, or is deemed by a court to be incompetent, (3) another responsible adult is appointed to make educational decisions for the minor, or (4) the right of the parent or guardian to make educational decisions for the minor is fully restored.

(l) The surrogate parent and the local educational agency appointing the surrogate parent shall be held harmless by the State of California when acting in their official capacity except for acts or omissions that are found to have been wanton, reckless, or malicious.

(m) The State Department of Education shall develop a model surrogate parent training module and manual that shall be made available to local educational agencies.

(n) Nothing in this section may be interpreted to prevent a parent or guardian of an individual with exceptional needs from designating another adult individual to represent the interests of the child for educational and related services.

(o) If funding for implementation of this section is provided, it may only be provided from Item 6110-161-0890 of Section 2.00 of the annual Budget Act.

## Appendix 2: Forms

The following forms are part of the Appointment of a Surrogate Parent:

### Placement/IEP Process:

- Notification of Placement of Individual with Exceptional Needs in Licensed Children's Institution or Foster Family Home – JV 535
- Interim Placement Form (download current copy from [www.rcselpa.org](http://www.rcselpa.org))
- Educational Surrogate Parent Qualifying Data and Parent Search Documentation
- Notification to court regarding the appointment of the Surrogate Parent – JV 536

### Appointment of Surrogate Parent Forms:

- Appointment/Acceptance of Surrogate Parent

### Surrogate Parent Training and Monitoring Forms

- Educational Surrogate Parent Application
- Acknowledgement of Training Completion
- Surrogate Parent Evaluation

### Surrogate Parent Training Materials:

- Training PowerPoint, "Surrogate Parent: Standing in for the Parent - An Educational Training Program"
- Riverside County SELPA Individual Education Program (IEP) Forms – download current copies from [www.rcselpa.org](http://www.rcselpa.org)
- Riverside County SELPA Procedural Safeguards - download current copies from [www.rcselpa.org](http://www.rcselpa.org)
- Roles and Responsibilities in the IEP Process Activity

### Flyers for Recruiting Surrogate Parents

[Ed Surrogate Flyer](#)

[Ed Surrogate Flyer - Spn](#)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
CHILD'S NAME: _____	
<b>FINDINGS AND ORDERS LIMITING RIGHT TO MAKE EDUCATIONAL DECISIONS FOR THE CHILD, APPOINTING EDUCATIONAL REPRESENTATIVE, AND DETERMINING CHILD'S EDUCATIONAL NEEDS</b>	CASE NUMBER: _____

1. a. Date of hearing: \_\_\_\_\_ Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
 b. Judicial officer (name): \_\_\_\_\_  
 c. Persons present:  
 Child  Child's attorney  Mother  Mother's attorney  Father  
 Father's attorney  Guardian  Deputy district attorney  Probation officer/social worker  
 Deputy county counsel  CASA volunteer  Other (specify): \_\_\_\_\_
2. Providing the information on this form to the parent or guardian  will  will not create a safety risk for the child (for example, because of the placement's confidentiality).  
 a.  The information is to be withheld from the parent or guardian (name each): \_\_\_\_\_  
 b.  The information is to be provided to the parent or guardian (name each): \_\_\_\_\_
3. Date of birth: \_\_\_\_\_  
 4. Child's school district: \_\_\_\_\_  
 5. Child's school (name and address): \_\_\_\_\_  
 6. Child's social worker (name and address): \_\_\_\_\_  
 7. Child's supervising social worker (name): \_\_\_\_\_  
 8. Child's probation officer (name and address): \_\_\_\_\_  
 9. Foster youth liaison (as defined in Education Code section 48853.5(b)) (name and address): \_\_\_\_\_  
 10. Child's attorney (name and address): \_\_\_\_\_
11. After consideration of the evidence, the court finds and orders under Welfare and Institutions Code section 319(g), 361(a), or 726(b):  
 a. The right of the  parent (name): \_\_\_\_\_  parent (name): \_\_\_\_\_  
 guardian (name): \_\_\_\_\_  guardian (name): \_\_\_\_\_  
 to make educational decisions for the child is (specify):  
 limited by this court  temporarily limited by this court (if before disposition).  
 b.  Parental rights have been terminated, and no one holds educational rights for this child.

CHILD'S NAME: _____	CASE NUMBER: _____
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11. c.  Reunification services for the child and family have been terminated or were never ordered and the child is placed in a planned permanent living arrangement with *(identify placement or indicate if placement is confidential)*:
- (1)  The court finds that the identified foster parent, relative caregiver, or nonrelative extended family member (as defined in Welfare and Institutions Code section 362.7) may represent the child in all general and special educational matters under Education Code section 56055(a) and is not prohibited from doing so or excluded by Welfare and Institutions Code section 381 or 726 or 34 Code of Federal Regulations section 300.519 or 303.19.
- (2)  The following foster parent, relative caregiver, or nonrelative extended family member (as defined in Welfare and Institutions Code section 362.7) may not make educational decisions for the child under Education Code section 56055(b).
- (a) Name:  
(b) Address:  
(c) Telephone:  
(d) Relationship to child:
- d.  The following responsible adult, who has no apparent conflict of interest and who is not prohibited by Education Code section 56055 or 34 Code of Federal Regulations section 300.519 or 303.19, is appointed as the child's educational representative:
- (1) Name:  
(2) Address:  
(3) Telephone:  
(4) Relationship to child:
- e.  The court cannot identify a responsible adult to make educational decisions for the child, and the child is potentially eligible for special education and related services or already has an individualized education program (IEP). Therefore, the court refers the child to the local educational agency (LEA). The LEA must make reasonable efforts to appoint a surrogate parent for the child under Government Code section 7579.5 within 30 days of the court's referral. The LEA must notify the court of the identity of the appointee on attached form JV-536 within seven calendar days of the date of the appointment, termination, resignation, or replacement of a surrogate parent.
- Note: If box 11.e. is checked, form JV-536, Local Educational Agency Response to JV-535—Appointment of Surrogate Parent, must be attached when this order is served on the local education agency.*
- f.  The court cannot identify a responsible adult to make educational decisions for the child, and the child does not qualify for special education. The court, with input from any interested person, will make educational decisions for the child.
12.  The child has the following educational and developmental needs *(check all that apply)*:
- a.  The child is 0–3 years old and has been identified with a disability.
- b.  The child is 0–3 years old and is suspected of having a disability.
- c.  The child is age 3 years or older and has been identified with a disability.
- d.  The child is age 3 years or older and is suspected of having a disability.
- e.  The child is currently eligible for special education, general education accommodations and modifications, early intervention services, or regional center developmental services.



CHILD'S NAME: _____	CASE NUMBER: _____
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12. f.  The child is receiving services based on the following plan (*check all that apply*):
- (1)  Individualized education program (IEP)  
(2)  Section 504 plan  
(3)  Individual family plan (IFP)  
(4)  Quality of life assessment  
(5)  Other (*explain*): \_\_\_\_\_
13.  The educational representative is ordered to (*check all that apply*):
- a.  submit to the local education agency a written referral for special education assessment and assessments under section 504 of the Rehabilitation Act of 1973.  
b.  submit to the regional center a written referral for an eligibility assessment.  
c.  submit to the local education agency a written referral for an assessment, evaluation, or services or a written request to convene the IEP team to review or revise the child's IEP.  
d.  submit a written request to the regional center to convene the IFP team to review or revise the child's IFP.
14.  As provided under 34 Code of Federal Regulations § 300.300, the child's initial evaluation for special education services need not be postponed to await parental or guardian consent or appointment of an educational representative because one or more of the following circumstances have been met:
- a.  The court has limited or temporarily limited the educational rights of the parent or guardian, and consent for an initial assessment has been given by an individual appointed by the judicial officer to represent the child.  
b.  The local education agency cannot discover the whereabouts of the parent or guardian.  
c.  The parent's rights have been terminated, or the guardianship has been set aside.
- The court appoints the following person to represent the child in the request for an initial evaluation (*name, address unless confidential*): \_\_\_\_\_
15. The clerk will provide a copy of the completed JV-535 to the child if 10 years or older, to the child's attorney, to the social worker and probation officer, to the foster youth liaison, and to the educational representative at the end of the proceeding or no later than seven calendar days after the order. The clerk will make the form available to the parents or guardians (unless otherwise indicated on the form), the Court Appointed Special Advocate (CASA) volunteer, and, if requested, to all other persons provided notice under section 293.
16.  Within seven calendar days of this order, a copy of this order must be served on the local education agency by (*choose one*):
- a.  a representative of the county welfare department  
b.  a representative of the probation department  
c.  the clerk of this court  
d.  the child's attorney
17. This order applies to any school or school district in the state of California.
18.  The educational representative, or the person whom the court appointed to represent the child for an initial evaluation, will report to the court regarding the child's education on (*date*): \_\_\_\_\_ in Dept. \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.

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

\_\_\_\_\_  
JUDICIAL OFFICER



CHILD'S NAME: _____	CASE NUMBER: _____
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7.  The local educational agency has not appointed an surrogate parent within 30 days as required by rule 5.650(d)(3).

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(LOCAL EDUCATION AGENCY REPRESENTATIVE'S SIGNATURE)

\_\_\_\_\_  
(TITLE)

**RIVERSIDE COUNTY SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)  
EDUCATIONAL SURROGATE PARENT  
QUALIFYING DATA AND PARENT SEARCH DOCUMENTATION**

*The use and distribution of this form is limited to employees of public school agencies within the Riverside County Special Education Local Plan Area (SELPA)*

Student's Name: \_\_\_\_\_ Birthdate: \_\_\_\_\_ Date Enrolled: \_\_\_\_\_

District/County Office: \_\_\_\_\_ School Year: \_\_\_\_\_

Form #: \_\_\_\_\_ Obtained:  Yes  No Ward/Dependent of the Court  Yes  No

Form #: \_\_\_\_\_ Obtained:  Yes  No

Interim Surrogate Appointed:  Yes  No

Name of:  Licensed Children's Home  Foster Family Home  Other \_\_\_\_\_

Name of Facility

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

Social Worker or Probation Officer: \_\_\_\_\_

Agency Name: \_\_\_\_\_ Phone: \_\_\_\_\_

**SURROGATE PARENT QUALIFYING INFORMATION**

<i>Please check all that apply</i>	Surrogate Needed		Comments
	Yes	No	
<input type="checkbox"/> Parents rights removed:			
<input type="checkbox"/> Parent located/retains rights:			
<input type="checkbox"/> Parent not located:			
<input type="checkbox"/> Parent appointed educational representative:			
<input type="checkbox"/> Parents are minors: Father's age: _____ Mother's age: _____			
<input type="checkbox"/> Student has been conserved by court (age of majority):			
<input type="checkbox"/> Emancipated youth:			
<input type="checkbox"/> Married minor:			

**PARENT SEARCH ATTEMPTS:** Please document the efforts you have made toward a reasonable search of pupil's parents. This must consist if a minimum of three search attempts conducted over a three week period utilizing two or more types of contact techniques. ***These search attempts must be made prior to an assignment of a surrogate parent.***

**RIVERSIDE COUNTY SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)  
EDUCATIONAL SURROGATE PARENT APPLICATION**

*The use and distribution of this form is limited to employees of public school agencies within the Riverside County Special Education Local Plan Area (SELPA)*

DATE	METHODS				COMMENTS
	Certified Mail	Telephone Call	Home Visit	Other	
#1					
#2					
#3					

**CERTIFICATION AND REFERRAL:** I certify that there has been a reasonable search for pupil's parents, as documented above, and that pupil qualifies for and is in need of a special education surrogate parent.

\_\_\_\_\_  
*Signature of Special Education Administrator or Designee*

\_\_\_\_\_  
*Date*

**FOR OFFICE USE ONLY**      **Date received:** \_\_\_\_\_      **Date surrogate appointed:** \_\_\_\_\_

**Please return to:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

OFFICE USE ONLY		
Student:	Date of Application:	
LEA:	Date volunteer placed:	
SKIN TEST OR X-RAY		
Number:	Date:	
Fingerprinted:	Date:	CASA:

***Please read carefully and fill in completely. Please print or type.***

<input type="checkbox"/> Mr.	Last Name	First Name	Age
<input type="checkbox"/> Miss			
<input type="checkbox"/> Mrs. <input type="checkbox"/>			
Ms.	_____	_____	_____

Home Address (*street, city, zip*) \_\_\_\_\_

Home Telephone: \_\_\_\_\_

Business Telephone: \_\_\_\_\_

**EDUCATION AND EXPERIENCE**

Grade level achieved: _____	Volunteer experience: _____
Now employed at: _____	Work experience: _____
Languages spoken fluently other than English: _____	Do you have Sign Language skills? (specify type): _____

**PLACEMENT PREFERENCES**

<u>I Can Serve:</u>	<u>Means of transportation:</u>
<input type="checkbox"/> Where needed	<input type="checkbox"/> Have a car
<input type="checkbox"/> Near home	<input type="checkbox"/> Use freeways
Days I can serve (circle): M   T   W   TH	<input type="checkbox"/> Use surface streets only
	<input type="checkbox"/> Use bus only

**RIVERSIDE COUNTY SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)  
EDUCATIONAL SURROGATE PARENT APPLICATION**

*The use and distribution of this form is limited to employees of public school agencies within the Riverside County Special Education Local Plan Area (SELPA)*

F

Morning     Afternoon     Evening

Maximum number of hours per day:

\_\_\_\_\_

Grade level preferred:

Preschool                       Junior High  
 Elementary (1-3)               Senior High  
 Elementary (4-6)

Other travel arrangements: \_\_\_\_\_

Disability/Special need preference:

Learning Disability                       Severely Handicapped  
 Communicative Impairment               Orthopedic Impairment

I heard about the Surrogate Parent Program

from:

Flyer/Brochure                       Newspaper  
 Volunteer Organization               Internet

Other: \_\_\_\_\_

**IN CASE OF EMERGENCY, PLEASE NOTIFY**

Name:	Address	Phone Number
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\_\_\_\_\_

Two References (*not relatives*)

1. Name:	Phone Number:
_____	_____

2. Name:	Phone Number:
_____	_____

**CERTIFICATION**

To protect the good health of students, the California State Board of Education requires that all school volunteers and employees be tested for possible exposure to tuberculosis every four years. Volunteers may be tested by their own physician, or a County Health Center.

I certify that all of the statements made on this application are true, complete and correct to the best of my knowledge and belief, and are made in good faith. I understand that I may be fingerprinted and investigated prior to appointment.

Signature of Applicant ( <i>sign in ink</i> )	Date Signed
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**RIVERSIDE COUNTY SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)**  
**APPOINTMENT/ACCEPTANCE OF SURROGATE PARENT**

*The use and distribution of this form is limited to employees of public school agencies within the Riverside County Special Education Local Plan Area (SELPA)*

I appoint \_\_\_\_\_ to act as surrogate parent in matters involving the education of \_\_\_\_\_ . This representative shall have parental authority in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in other matters relating to the provision of a free appropriate education for the individual.

This appointment shall remain in effect for one year or until any of the following occur:

1. The pupil's parent is located.
2. The parent appoints an educational representative.
3. The surrogate parent is unwilling or unable to carry out his or her responsibilities in the best interest of the individual.
4. The surrogate parent is in a position with a conflict of interest in the above matter.

Special Education Administrator or  
Designee

Telephone Number

Date

\_\_\_\_\_

**ACCEPTANCE OF APPOINTMENT**

I, \_\_\_\_\_ hereby accept the above appointment. At such time as I am unable or unwilling to continue this appointment, I will notify the Special Education Administrator designated above. I understand that I shall be held harmless by the State of California when acting in my official capacity except for acts or omissions which are found to have been wanton, reckless, or malicious. I acknowledge that the Riverside County SELPA or district has provided training regarding the laws applicable to surrogate parent responsibilities and the continuum of education placements and opportunities available for individuals with disabilities.

I agree to maintain all student records and information in a confidential manner. Upon the termination of this agreement, I will return all such records to:

Surrogate parent  
(signature): \_\_\_\_\_

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

Address: \_\_\_\_\_

City: \_\_\_\_\_ Zip Code: \_\_\_\_\_ Telephone: \_\_\_\_\_

**RIVERSIDE COUNTY SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)  
ACKNOWLEDGMENT OF TRAINING COMPLETION**

*The use and distribution of this form is limited to employees of public school agencies within the Riverside County Special Education Local Plan Area (SELPA)*

**Dear Surrogate Parent:**

This letter is to certify your completion of the requirements prescribed by the Riverside County SELPA for Surrogate Parent Training.

**The Surrogate Parent Training Program included the following topics:**

1. Federal and State laws, regulations, and rules;
2. Special education; and,
3. The role and responsibilities of the surrogate parent in the special education process.

The information obtained from this training will enable you to adequately represent the interests of the child to whom you will be assigned. If you have questions about the content of your training program, please feel free to call:

---

*(Name/Title/LEA)*

Sincerely,

Special Education Administrator



**RIVERSIDE COUNTY SPECIAL EDUCATION LOCAL PLAN AREA (SELPA)  
EDUCATIONAL REPRESENTATIVE  
(SURROGATE PARENT) EVALUATION**

*The use and distribution of this form is limited to employees of public school agencies within the Riverside County Special Education Local Plan Area (SELPA)*

Educational Representative's Name: \_\_\_\_\_

Date of Appointment: \_\_\_\_\_ Ending Date: \_\_\_\_\_

Student's Name: \_\_\_\_\_

Birthdate: \_\_\_\_\_ Date of last IEP: \_\_\_\_\_

School: \_\_\_\_\_

**EVALUATION OF EDUCATIONAL REPRESENTATIVE**

- |   |                              |                             |
|---|------------------------------|-----------------------------|
| Responded to all school correspondence.                                     | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Visited child in program each semester.                                     | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Actively participated in the IEP process.                                   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Maintained confidentiality requirements.                                    | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Met and conferred with all teachers and related staff working with student. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Performed duties with adequate knowledge and skills.                        | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**COMMENTS**

**RE-APPOINTMENT RECOMMENDED**

Yes  No

\_\_\_\_\_  
*Completed By*

\_\_\_\_\_  
*Position*

\_\_\_\_\_  
*Date*

