



**Series :** 100: Case Management  
**Policy Name:** Education for Children in Shelter Care or Foster Care, suspected of having a Disability requiring an Educational Surrogate  
**Policy Number:** 128  
**Origination Date:** 11/1/2013 **Revision Date:** 4/3/2019

**Policy:** The intent is for children with disabilities known to the Department to have a free, appropriate public education designed to meet their unique needs and prepare them for further education, employment, and independent living.

**Procedure:**

If: a) a parent of a child with disabilities or suspected of having disabilities cannot be located, or b) a court determines that no person has the authority, willingness, or ability to serve as the educational decision maker for the child, then the court must appoint a "surrogate parent" for the child F.S. 39.0016 (3)(b), 39.402(11)(d), 39.701(8)(d)

Each District school superintendent or dependency court must appoint a surrogate parent for a child known to the Department who has or is suspected of having a disability F.S. 39.0016(3) (b) as defined in s.1003.01(3). when:

1. After reasonable efforts, no parent can be located; or
- 2.. A court of competent jurisdiction over a child under this chapter has determined that no person has the authority under the Individuals with Disabilities Education Act, including the parent or parents subject to the dependency action, or that no person has the authority, willingness, or ability to serve as the educational decision maker for the child without judicial action.
3. If a Guardian Ad Litem has been appointed for a child, the district school superintendent must first consider the child's GAL when appointing a surrogate.
1. District school superintendent must accept surrogate parent appointed by the court if court has already appointed one
2. Notice shall be provided to the district school superintendent of appointment by the court
3. Court must accept surrogate parent if already appointed by the district school superintendent F.S.
4. Court order appointing surrogate parent shall be entered by court regardless of who makes appointment
5. Appointed surrogate parent remains appointed even if child changes school districts
6. Court can remove a surrogate parent if in child's best interest)
7. Other grounds for termination of surrogate parent set forth in e.g., parent is located or child is adopted  
"Surrogate parent" means an individual appointed to act in the place of a parent in educational decision making and in safeguarding a child's rights under the Individuals with Disabilities Education Act F.S. Surrogate parent's responsibility is to be an educational decision maker for the child unless appointed for an additional purpose - not responsible for care, maintenance, custody, or residential placement of the child
8. Surrogate parent not liable for actions taken in good faith on behalf of the student in protecting the special education rights of the child F.S. 39.001 (3)(b)11.

**Who can't be a surrogate parent?**

A Surrogate parent cannot be an employee of any of the following:



- Department of Education
  - Local school district
  - Community-based care provider
  - Department of Children and Families
  - Group home staff
  - Therapeutic foster parents
  - Any other public or private agency involved in the education of the child in care
1. Surrogate parent can include foster parent or relative caregiver even if employed by one of these agencies
  2. Surrogate parent can include Guardian Ad Litem, relative or non-relative
  3. Surrogate parent must be at least 18 years old F.S.

**What must a surrogate parent do?**

1. Be acquainted with the child and become knowledgeable about his or her disability and educational needs
2. Represent the child in all matters relating to identification, evaluation, and educational placement
3. Represent the interests and safeguard the rights of the child in educational decisions that affect the child
4. Successfully complete training using materials developed by the Department of Education to ensure adequate representation of the child
5. If "exceptional student" (one with a disability) is placed in a private residential care facility by an agency, within 10 business days the agency must provide written notification of the placement to the school district where the student is currently counted for funding purposes under F.S. 1011.62.
6. Child shall be enrolled in school and receive a free and appropriate public education while notice and procedures regarding payment are pending
7. Receiving school district must review the students Individual Education Plan (IEP) within 10 days of receiving notice to determine implementation of IEP
8. School district that actually provides education to the child shall report the student for funding purposes F.S. 1003.57(3)
9. School districts may have written agreements which specify which district will be responsible for payment; agreement must include 10 day review of IEP
10. Department of Education, in consultation with agencies and school districts, shall develop procedures for written notification
11. If a parent refuses to or is unavailable to consent to access to the child's medical records by the Department, its contract providers, or the GAL, then court may order such access. F.S. 39.402(11)(b)
12. If a parent refuses to or is unavailable to consent to access to the child's educational records by the Department, its contract providers, or the GAL, then court may order such access. F.S. 39.402(11)(c)

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