2007

Get in the Game

Join the ESE Team as a Surrogate Parent for an Exceptional Student

There are exceptional students in our community who very much need a surrogate parent. A surrogate parent is not someone who takes care of a child, like an adoptive parent or a foster parent. A surrogate parent is not financially responsible for the child. A surrogate parent is a person who acts in the *educational* interests of an exceptional student in order to make sure that the student receives an appropriate education, as required by law.

Students in our community need surrogate parents.

Many adults are involved in a child's education—adults such as parents and teachers. This is true for exceptional students, too. An exceptional student is a student who has special learning needs because of a disability or because the student is gifted.

Have you heard of evaluations, IEP meetings, and related services? These are all part of exceptional student education (ESE). Each exceptional student needs someone like a parent who will participate in the ESE process, help make decisions, and help make sure that the student's needs are met and the student's rights are protected. Later, you will learn more about ESE and exceptional students.

When a student does not have a parent or guardian who can act in his or her interests during the ESE process, then the school district must find a surrogate parent for the student. An exceptional student needs a surrogate parent when the child's parent is unknown or cannot be located or when the child is a ward of the state. Wards of the state include children who live in group foster care, children who are incarcerated in juvenile justice facilities, and other children for whom the state is the official guardian. A child who has not yet been determined eligible for ESE services but who is suspected of being an exceptional student may also need a surrogate parent.

Surrogate parents have a very important role. They help the child and the school; they also help their community meet the needs of its exceptional students and fulfill its legal obligations.

The rewards for surrogate parents: the opportunity to share your time, use your skills, build relationships—and see the results in your own community and in the life of a child.

The surrogate parent does not take care of the child or support the child financially.

About Exceptional Students

An exceptional student is a student who has special learning needs. The student may have a relatively mild disability or may have multiple disabilities that severely impact learning. The student may be gifted. Some exceptional students spend the school day in a general education classroom; others spend some of the day in an ESE classroom or go to a special school.

Exceptional students who need a surrogate parent usually live in a group foster home, a juvenile justice facility, or another setting. Though each of these students is unique, they all share the need for a surrogate parent to work with the school to meet their educational needs.

To receive ESE services, a student must meet the eligibility criteria for one of the following program areas:

- Mentally Handicapped
- Speech and Language Impaired
- Deaf or Hard-of-Hearing
- Visually Impaired
- Emotional/Behavioral Disabilities
- Specific Learning Disabilities
- Physically Impaired with Orthopedic Impairment
- Physically Impaired with Traumatic Brain Injury
- Physically Impaired with Other Health Impairment
- Homebound or Hospitalized
- Dual Sensory Impaired
- Autism Spectrum Disorders
- Developmentally Delayed (ages 3 to 5)
- Gifted

Eligibility criteria are listed in State Board of Education rules, which are based on Florida law.

Signing On

To become a surrogate parent, you must:

- ✔ 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 the knowledge, skills, and experience needed to adequately represent the child

That last requirement—the one about knowledge and skills—does not mean that you need a college degree. It means that you should participate in the training made available to help you become an effective surrogate parent.

Here's how to become a surrogate parent.

- ✔ The person who wants to become a surrogate parent completes an application and returns it to the school district. The application includes a place to list references.
- ✔ The school district checks to make sure that the applicant meets the minimum qualifications listed above. The school district contacts the references to confirm the applicant's commitment to becoming a surrogate parent. The school district will also complete a background check on the applicant.
- ✔ Applicants who have been selected are put into a pool of surrogate parents. They receive a letter of eligibility from the school district.
- ✔ The eligible surrogate attends surrogate parent training.

✔ The school district matches the surrogate to a student. The school district sends a letter of appointment to the surrogate and lets the school know that the surrogate has been appointed.

Each school district goes through these steps a little differently. You may have already completed some of the steps.

Surrogate Parent Duties

The surrogate parent represents the exceptional student in all matters relating to the provision of a free appropriate public education (FAPE). This includes identification, evaluation, placement, and ESE services. (See pages 6 & 7.)

What will you actually do as a surrogate parent? All the things that a parent would do as part of the ESE process, such as:

- Become familiar with the child's abilities, disabilities, educational needs, current services, and short- and long-term goals
- Go to meetings and help the rest of the team make decisions about the special services the child will receive
- Sign papers, such as a consent for evaluation form or a consent for placement form (or refuse to sign if you think consent should not be given)
- Ask the school to hold a meeting or to change the identification, evaluation, placement, or services for the student
- Attend training sessions

The Starting Line

No parent has all the answers—and that includes surrogate parents. Here's how to "get up to speed" when you are first appointed as a surrogate.

- Ask the school to give you a copy of the child's recent educational records, including evaluation reports, individual educational plan (IEP) or educational plan (EP), report cards, and other records that will help you understand the child's needs and the educational services the child receives.
- Meet with the child's teachers and others who work with the student. Ask them to go through the child's records with you and help you understand them. Make sure you know what needs the child has, the specific services the child is receiving, and which teachers and other professionals work with the child. Ask questions.
- Ask the teachers and principal to arrange for you to meet the student. If appropriate, talk to the student about his or her needs and services. Some students with disabilities participate in their own IEP meetings. Older students in particular often have very definite ideas about their interests and their goals—and how to achieve them.
- Ask the teachers and principal to arrange for you to observe the child in the classroom, while receiving therapy, and while interacting with other children on the playground or in the lunch room.

These steps will help you become familiar with the student's background, special learning needs, and short- and long-term goals. This in turn will help you act in the child's interest when taking part in meetings and making decisions.

Is This Hard?

Some exceptional students receive one service, such as special instruction in reading, perhaps for only a short time. Other students have more severe disabilities and receive several different services delivered by several different teachers and therapists.

Some IEP or EP meetings are short and the team members agree on most issues. However, some meetings do get long and complicated, especially when members of the team disagree about the child's needs and services. This is true whether the child is represented by a parent or a surrogate parent.

However, it is also true that a surrogate parent does not need to be an expert on ESE in order to represent the child's interests. The keys to being an effective surrogate parent are:

- ✔ Caring and wanting to do a good job
- ✔ Gathering information from written records and from interviews with teachers and other people who work with the child
- ✔ Listening and asking questions at meetings and whenever more information is needed
- ✔ Focusing on the child's needs, abilities, and goals

The surrogate parent shall not be held liable for actions taken in good faith on behalf of the child in safeguarding the child's special education rights.

It Takes Teamwork

The school staff wants the best for the child, just like the surrogate parent does. When teachers and parents work as a team, it's easier to get the team's work done and meet the needs of the child. Team work involves:

- Respecting the importance of each team member's role
- Listening to each other
- Being as clear as possible about what one is saying
- Being flexible and trying to find several ways to reach a goal or solve a problem
- Writing things down to be sure everyone understands
- Asking for help when needed

There may be a time when you feel strongly that something is going wrong with the student's education or that the student is not making progress. It is a surrogate's right and responsibility to express such concerns, but continue to use good communication skills and a positive approach as the best way to solve problems.

Begin by making sure that you are talking to the right person to solve the problem. For example, if you think that the child needs to sit closer to the front of the classroom in order to pay better attention, talk to the child's teacher directly, or bring the matter up in the IEP meeting. On the other hand, if you think that a school board policy is interfering with the school's ability to meet the child's needs, the teacher will probably not be able to solve that problem.

If your concern does relate directly to the individual child's education, try the steps listed in the box on the next page.

Smart Steps

- ✔ Begin by talking to the person who delivers the instruction or service, such as the teacher or therapist.
- ✔ Next, ask for a meeting of the IEP or EP team. If the team cannot solve the problem or come to agreement, ask the team to meet again at a later date. In the meantime, ask team members to think of some possible solutions.
- ✔ If the team cannot solve the problem, meet with the school principal.
- ✔ If the student's needs are still not being met, contact the ESE administrator in the local school district.

Ask to see documentation that will shed light on the problem. When there is conflict, it is important to have as much factual information as possible to base a decision on.

When it becomes very difficult to resolve a conflict, it may help to take a break. Suggest that the team meet again in a few weeks. In the meanwhile, suggest that team members think about the documentation and what they have heard in the meeting again and see if they can come up with any alternative solutions.

See page 10 for more information about resolving conflicts.

The Finish Line

Of course it is best for the child if the surrogate parent continues to serve for as long as possible. Once a surrogate parent has participated in meetings for a while and is familiar with the child's needs, the school personnel, and the ESE services, that person will probably become a more and more effective representative for the child. However, there is no legal contract that will obligate you to keep serving longer than you wish to. If you want to stop serving, contact the ESE administrator of the local district in writing to inform that person of your decision.

Other circumstances may arise that will end the surrogate parent relationship. Here is a list of those circumstances:

- 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.

The ESE Process for Students with Disabilities

Children who have special learning needs because of a disability are called exceptional students. The special help they are given at school is called exceptional student education (ESE). The purpose of ESE is to help each child with a disability to progress in school and prepare for life after school. ESE services may include special teaching methods and materials. They may also include changes in the way material is taught and tested, special technology, physical therapy, occupational therapy, speech therapy, special transportation, or other supports. There is no charge for these special services.

Decisions about a child's ESE services are made by a team. The child's parents (or surrogate parent) are part of this team. Below is an explanation of the ESE process. This process is based on the Individuals with Disabilities Education Act (IDEA 2004).

Referral for Individual Evaluation

A referral is a request for an individual evaluation of a child who is suspected of needing ESE services. Some children are referred because they have an obvious disability or because they do not do well on group tests such as hearing or vision screenings. However, when a child is having difficulty in school, several kinds of help are usually tried before a referral for evaluation is made. For example, the school's child study team may suggest specific teaching or behavior management methods to the teacher. These are called interventions. If the interventions do not solve the problem, the parent or the school staff will then refer the child for an evaluation.

Individual Evaluation

An individual evaluation is a way of collecting information about a child's learning needs, strengths, problems, and interests. The evaluation may include tests, observations, interviews, or other ways of gathering information. In order for a child to be individually evaluated, the parent must give written consent.

Eligibility Determination

After the evaluation, the school holds a meeting called an **eligibility staffing**. The parents and the rest of the team at the eligibility staffing discuss the information collected about the child. Then the team determines whether the child is eligible for ESE services. To receive ESE services, the child must meet the criteria for one of the special programs listed in State Board of Education rules (and listed on page 2 of this pamphlet). The child must also have a need for special education services. The process of determining which special program the student is eligible for is called **identification**.

Consent for Services

If the child has been determined eligible to receive ESE services, the parent is asked to give written consent for the child to receive such services. A child cannot receive ESE services for the first time until the parent has given consent.

Development of the First IEP

The next step is to hold a meeting to write an **individual educational plan (IEP)**. The child's parents are invited to this meeting because they are part of the IEP team. The IEP team determines which special services and supports the child needs in order to make progress and achieve his or her annual goals.

The IEP team also decides what kind of classes the child will receive services in. Most children with disabilities spend most of their school day in general education classrooms. Some children leave the general education classroom for part of the day to receive services in an ESE resource class. A few children spend all day in a special class or in a special school.

Yearly Development of New IEP

At least once every 12 months, the IEP team meets to talk about the child's progress and to develop a new IEP. Of course, the child's needs may change at any time, so the parent, the teacher, or other team members may ask for an IEP meeting at any time. The child's services will be changed only during an IEP meeting. Parents must be invited to participate in decisions about services, but their consent for changes in services is not required.

Re-evaluation

The purpose of **re-evaluation** is to find out how the child's needs have changed over time and whether the child still needs ESE services. The school district, teacher, or parent may initiate the re-evaluation; however, the student must be re-evaluated at least once every three years—unless the parent and school district agree otherwise. The IEP team determines whether any new tests or observations are needed as part of the re-evaluation process. The school must make reasonable efforts to obtain parental consent for re-evaluation.

Note: *Programs for* ***gifted*** *students are also part of ESE. However, the process for serving gifted students is not the same as the process described above. For more information, contact the school district's supervisor of gifted services.*

Note: *Children* ***ages birth to two*** *who have disabilities or developmental delays may also need a surrogate parent. Infants and toddlers are served through a program called* ***Early Steps****. For more information, call* ***850-487-2690*** *to find out how to contact the local Early Steps office.*

Procedural Safeguards for Students with Disabilities

The federal law called the Individuals with Disabilities Education Act (IDEA 2004) spells out the right of children with disabilities to a free, appropriate public education (FAPE). This means that a child with a disability has the right to individually designed special education services that may be reasonably expected to benefit the child educationally. It does not mean that a child with a disability has the right to the best possible educational services.

IDEA 2004 also spells out the rights of parents of students with disabilities. These rights are called "procedural safeguards." 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:

- The right to receive notice
- The right to participate
- The right to give consent

These rights come into play in different ways during the different parts of the ESE process, such as referral, evaluation, and IEP meetings.

A copy of the procedural safeguards must be provided to parents at these times:

- ***When the child is first referred for evaluation (or if the district refuses the parent's request to evaluate the child)***
- ***Upon each notification of an IEP meeting***
- ***Upon re-evaluation of the child***
- ***Whenever a request for a due process hearing is filed***

Notice: The parent shall be given informed written notice before any proposal or refusal to initiate or change the identification, evaluation, or educational placement of the student or the provision of FAPE to the student. The notice must explain what the school district wants to do or refuses to do. The district must provide the notice in the native language of the parent, unless it is clearly not feasible to do so.

Participation: The parent has the right to participate in the ESE decision-making process. This means that the school must invite the parent to meetings long enough in advance and must schedule meetings so that they are convenient for school staff and the parent. Parents also have the right to meaningful participation—in other words, the team needs to listen to and consider parents' ideas and requests. It does not mean that the team has to agree to all the parent's requests.

Consent: Written parental consent must be obtained before any individual evaluation or initial placement into an ESE program. The district must also make a reasonable attempt to obtain parental consent before re-evaluating the student.

Educational Records: Parents, including surrogate parents, have the right to review all educational records related to the identification, evaluation, and educational placement of the student or the provision of FAPE to the student. Educational records include things like report cards, IEPs, and discipline reports. As a surrogate parent, you will have the right to:

- Look at or get a copy of the child's educational records
- Request changes in the child's educational records

However, the school must protect the confidentiality of students' records by allowing parents to see only the information that relates to the individual child. The school also must keep a record of people that obtain access to educational records.

Solving Problems

The procedural safeguards also describe the process for the formal resolution of conflicts between school districts and parents (including surrogate parents).

Mediation: Mediation does not involve a legal hearing; it is more like a meeting. A mediator meets with the parent and the school district and helps them come to an agreement that satisfies both parties. Mediation can be a relatively quick, simple, and positive way to resolve a conflict. Mediation services are free for parents of students with disabilities. By participating in mediation, parents do not lose their right to request a due process hearing or file a complaint.

Formal Written Complaint: If the parent believes that the school district has violated a law related to the education of students with disabilities, such as IDEA 2004, the parent may file a formal complaint with the Florida Department of Education (DOE). DOE will investigate to determine whether the school district complied with the law. If it did not, DOE can order corrective actions.

Due Process Hearing: Either the parent or the school district may ask for a due process hearing. A due process hearing must be about the identification, evaluation, or placement of the student or the services provided to the student. In a due process hearing, an administrative law judge (ALJ) considers evidence presented by both parties and decides whether the school district has acted properly. The ALJ can order the school district to take corrective actions if it has not acted properly. A due process hearing can take significant time, and lawyers are often involved. The court may award reasonable attorney's fees to the parents if they are the prevailing party in a hearing.

***There are other procedural safeguards, such as the right to request an individual educational evaluation (IEE). To learn more about the rights of parents and surrogate parents in the ESE process, see "Summary of Procedural Safeguards for Students with Disabilities" and the book titled* For Parents of Florida's Students with Disabilities: An Introduction to Exceptional Student Education.**

Support Crew

All surrogate parents need support and information. You may want to write contact information for some members of your ESE team in the box on the right.

The staff of the school and the school district appreciate your willingness to serve as a surrogate parent. They are ready to help you by listening and talking; answering questions; and helping you locate and understand student records, learn more about ESE, make decisions, and solve problems.

Another source of help and information is the Florida Diagnostic and Learning Resources System (FDLRS). There are 19 FDLRS associate centers around the state. Each center offers services to parents of exceptional students, including surrogate parents. Contact the local FDLRS associate center for more information about the ESE process, services for exceptional students, and training that you may be interested in. Ask the school district office how to contact the local FDLRS center or visit the statewide FDLRS website:

www.fdlrs.com

Information about children with disabilities is available from many sources, including NICHCY (the National Dissemination Center for Children with Disabilities).

www.nichcy.org

1-800-695-0285

Parent support and advocacy organizations and other sources of information and assistance are listed in chapter 5 of *For Parents of Florida's Students with Disabilities: An Introduction to Exceptional Student Education*.

My Support Crew

Surrogate Parent Contact

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ESE Administrator

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FDLRS Associate Center

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Parent Support Group

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Surrogate Parents' Dictionary

Assessment—A way of collecting information about what a student knows and can do and what a student still needs to learn. Assessment may include giving tests, observing the student, and looking at the student's portfolio or work samples.

Child Study Team—A group of people who help teachers meet the learning needs of their students. The team may recommend interventions. The team may also refer a student for an evaluation.

Complaint—A parent's formal written claim that a school district has violated a law related to the education of students with disabilities.

Consent—Parents' agreement to let the school take an action that affects their child's education. Consent is usually shown by the parent signing a form.

Disability—A condition that makes it hard for a student to learn or do things in the same ways as most other students.

Due Process Hearing—A formal meeting held to settle disagreements between parents and school districts about the evaluation, eligibility, placement, services, or IEP of a child with a disability. The meeting is run by an administrative law judge.

Eligibility Staffing—A meeting at which the parents and a group of school staff members decide if a student is eligible for ESE services. This decision is based on evaluation reports and other information. To be eligible, the student must meet the requirements listed in State Board of Education rules.

ESE Administrator—The leader of a school district's ESE programs. This person works for the whole school district, not just for one school.

Exceptional Student—A student who has special learning needs as described in State Board of Education rules. This includes students who have a disability and students who are gifted.

Exceptional Student Education (ESE)—Educational programs and services for students with special learning needs (including those who have disabilities and those who are gifted).

Free Appropriate Public Education (FAPE)— The words used in the federal law (IDEA 2004) to describe instruction that is specially designed to meet the individual learning needs of a student with a disability, at no cost to his or her parents.

Gifted—The word used to describe to describe students who are eligible for ESE services because of their high academic ability and special learning needs related to their high ability.

Identification—The determination that a student has a disability and what the disability is.

Individual Educational Plan (IEP)—A written plan that describes the individual learning needs of a student with disabilities and the ESE services that will be provided to that student.

Individuals with Disabilities Education Act (IDEA 2004)—The most important United States law regarding the education of students with disabilities.

Mediation—A process in which parents and school personnel try to settle disagreements with the help of a person who has been trained to resolve conflicts.

Notice—A note or letter to parents about an action the school plans to take that will affect their child's education.

Participation—Taking part in a task, such as making a decision or writing an IEP.

Placement—The type of setting in which the student is to receive special services. The placement may include one or more than one classroom or other area in which the student is to receive services for a particular amount of time.

Procedural Safeguards—Rules outlined in IDEA that give parents the rights to participate, have notice, and give consent. The procedural safeguards also determine how parents and schools can resolve disputes through mediation, due process, or complaint procedures.

Related Services—Special services needed to help a student with a disability to benefit from special education. Examples of related services are special transportation, social work services, physical therapy, and the services of readers for the blind.

Finding Out More about ESE and Exceptional Students

Here are some publications that you may find helpful:

- *For Parents of Florida's Students with Disabilities: An Introduction to Exceptional Student Education and Parents' Educational Records*
- "Getting Ready for Your Child's IEP Meeting"
- "ESY: What's the IDEA behind Extended School Year Services for Students with Disabilities?"
- "Summary of Procedural Safeguards for Students with Disabilities"
- "Planning FCAT Accommodations for Students with Disabilities: Information for Parents and Teachers"
- "High School Diploma Options for Students with Disabilities: Getting the Right Fit"
- *Accommodations and Modifications: What Parents Need to Know*
- *Diploma Decisions for Students with Disabilities—What Parents Need to Know*
- *Transition Planning for Students with Disabilities: A Guide for Families*
- *For Parents of Florida's Students Who Are Gifted: An Introduction to Gifted Education*

Most of these publications are available in English and Spanish. All of them, including this pamphlet, are available free from the Florida Department of Education's Clearinghouse Information Center. Contact the Clearinghouse at

Voice: 850-245-0477
Fax: 850-245-0987
E-mail: cicbiscs@fldoe.org

The publications are also available on the internet:

www.myfloridaeducation.com/commhome/pub-home.htm

Laws and Rules Related to ESE

- Individuals with Disabilities Education Act (IDEA 2004)
- Americans with Disabilities Act (ADA)
- Rule 6A-6.0333, Florida Administrative Code

Florida Department of Education
Bureau of Exceptional Education and Student Services

ESE 312846B