

# PROCEDURAL HANDBOOK

## SECTION

### 9

#### *Surrogate Volunteer Procedural Guidelines*

---

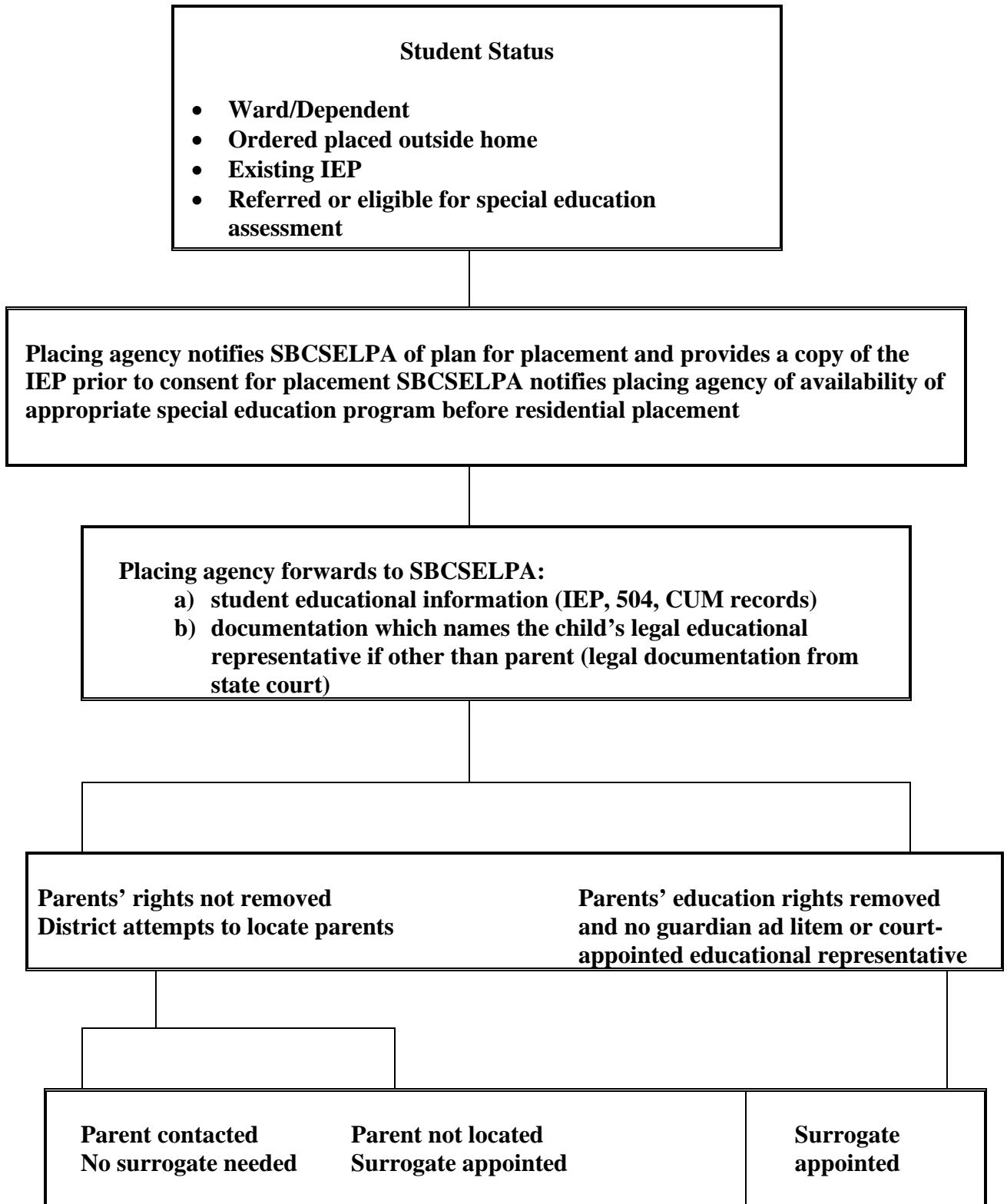
This section contains information you should know about...

---

	Page
Surrogate Volunteer Appointment Program Guidelines Flowchart .....	9-1
Surrogate Volunteer Definition.....	9-2
Parent Definition.....	9-2
Administration of the Program .....	9-2
When to Appoint Surrogate Volunteers.....	9-3
Determining Student Status .....	9-4
Selecting Surrogate Volunteers .....	9-5
Recruiting Surrogate Volunteers.....	9-6
Role of Surrogate Volunteers.....	9-7
Liability.....	9-7
Access to Records.....	9-7
Training Surrogate Volunteers.....	9-7
Term of Surrogate Volunteer Appointment .....	9-8
What Forms Should be Used .....	9-9

Some of the information in this chapter was taken from: *Surrogate Parents in California Special Education, An Overview* from Resources in Special Education.

# SURROGATE VOLUNTEER APPOINTMENT PROGRAM GUIDELINES



***SURROGATE VOLUNTEER DEFINITION***

***A SURROGATE VOLUNTEER IS DEFINED AS FOLLOWS:***

- An adult appointed by the district to represent a student whenever the student does not have parental representation and has been referred for, or is currently being served in, special education.

***PARENT DEFINITION***

***A PARENT IS DEFINED AS THE FOLLOWING:***

- Any person having legal custody of a child.
- Any adult pupil for whom no guardian or conservator has been appointed.
- A person acting in the place of a natural or adoptive parent including a grandparent, stepparent or other relative with whom the child lives.
- A foster parent if the natural parents' authority to make educational decisions on the child's behalf has been specifically limited by court order, the foster parent has an ongoing, long-term parental relationship with the child, the foster parent is willing to make decisions required of parents regarding special education and the foster parent has no interest that would conflict with the interests of the child.
- Any person appointed as a Surrogate Volunteer.

Parent does not include the state or any political subdivision of government.

***ADMINISTRATION OF THE PROGRAM***

***THE SBCSELPA WILL BE RESPONSIBLE FOR THE FOLLOWING ADMINISTRATIVE TASKS:***

- Developing a training program for surrogate volunteers.
- Issuing a SELPA, *Surrogate Volunteer Training Certificate* (SELPA23) to candidates who successfully complete the training and pass the Post Test
- Developing forms from advisement of State SELPA.
- Maintaining a master list of Surrogate Volunteers.

***THE DISTRICTS WILL BE RESPONSIBLE FOR THE FOLLOWING ADMINISTRATIVE TASKS:***

- Notifying and asking placing agencies in the County to indicate the parent's location and educational rights status using SELPA form, *Notification of Placement of Individual with Exceptional Needs in Licensed Children's Institution or Foster Family Home* (SELPA20).
- Determining student status and assigning a Surrogate Volunteer when appropriate.
- Recruiting Surrogate Volunteers.
- Processing Information/Registration Forms for Surrogate Volunteers.
- Maintaining a record of the name of the surrogate volunteer assigned to each individual with disabilities who requires a surrogate.
- Monitoring performance of Surrogate Volunteers using SELPA form, *Surrogate Volunteer Evaluation* (SELPA25).

**WHEN TO APPOINT SURROGATE VOLUNTEERS**

***SURROGATE VOLUNTEERS WILL BE APPOINTED UNDER THE FOLLOWING CIRCUMSTANCES:***

- Parent cannot be located or a court has removed the parent's educational rights to represent the child.
- If a student is a dependent or ward of the court, the specific information provided by the agency representative shall be deemed as documentation that the parental rights to make educational decisions have been removed or limited by the court.
- If parental education rights have been specifically removed by the court, the student shall be assigned a Surrogate Volunteers, unless the judge overseeing the child's care has appointed an individual to act as a surrogate parent and that individual meets the requirements to legally be a surrogate parent.
- If a student is a dependent or ward of the court, the specific information provided by the agency representative shall be deemed as documentation that the parental rights to make educational decisions have been removed or limited by the court.
- If parental education rights have been specifically removed by the court, the student shall be assigned a Surrogate Volunteer, unless the judge overseeing the child's care has appointed an individual to act as a surrogate parent and that individual meets the requirements to legally be a surrogate parent.

- If one parent or legal guardian retains the right to make educational decisions on the student's behalf, and the parent or legal guardian is willing to represent the student, **no** Surrogate Volunteer will be assigned.

**NOTE:** If reasonable efforts have resulted in a failure to locate the parent or to obtain parent status notification from the placing agency, an interim Surrogate Volunteer may be appointed. This may be necessary to facilitate timely IEP review and/or parent consent for special education assessment. Ongoing efforts to determine student status should, however, continue.

### **IMPORTANT**

A local education agency shall make reasonable efforts to ensure the appointment of a surrogate parent not more than 130 days after there is a determination by the local education agency that a child needs a surrogate parent.

### **DETERMINING STUDENT STATUS**

The districts will be responsible for determining the student's status. The basis for making a decision to appoint Surrogate Volunteers will be determined by the absence of any adult who has the officially recognized right to be the educational representative of that child.

Each district should attempt to locate parents of students who retain education rights. In the event that they cannot be located, a **reasonable search** will be deemed to have been conducted when the district has sent one letter to last known address and has made one follow-up phone call.

Status of students already enrolled will be determined by the program operator. "New" incoming student's status will be determined by the district of residence.

The following steps are recommended for determining student status:

Class lists can be used to identify the following 4 groups of students who **do not** require surrogate volunteers:

1. All special education students who reside with parent.
2. All special education students who have a parent or guardian.
3. All voluntary placements where parent retains educational rights.
4. All non-conserved students who are 18 years or older. (If conserved, conservator may have been given rights, as specified by the court.)

Records of the special education students who do not fall within the above categories should be further analyzed to determine the need for surrogate volunteer appointment. Information that needs to be addressed is parent name, date of birth, residential placement, and dependency status, status of parent educational rights and location of parent. If new student records are incomplete, the placing agency should be notified that the student could not be placed in an educational program until the following information has been received:

Copy of current IEP

Designation of status of parents

Identity of the individual responsible for representing the educational interests of the child.

The placing agency should also be requested to provide copies of current psychological and other pertinent assessment reports, if available.

The placing agency is responsible for notifying the SBCSELPA prior to placing a school-age child with exceptional needs in a Licensed Children's Institution or Foster Family Home within the Special Education Local Plan Area. This step is to take place prior to placement in order to determine whether the requirements in the written IEP can be met.

## **SELECTING SURROGATE VOLUNTEERS**

Persons selected as surrogate volunteers *shall*:

1. Show that they do not have any conflict of interest. Districts should consider the following factors when determining if there is a conflict of interest:
  - Is the person employed by a district or any public agency involved in the education or care of the child?
  - Does the person hold a position that might restrict or bias his/her ability to represent the child's educational needs?
  - Does the person hold a position that might subject his/her to administrative influence or reprimand for acting as the child's educational representative?
  - Does the person have interests that might restrict or bias his or her ability to advocate for all of the services required to ensure a free appropriate public education for an individual with exceptional needs?
2. Have knowledge and skills that ensure adequate representation of the child;
3. Not be an employee of a public or private agency involved in the education or care of the child.

Social workers, probation officers, employees of any public agencies or group homes and LCI's may not act as Surrogate Volunteers if they are employed by an agency involved in the education or care of the child. Foster parents may be surrogate volunteers if there is not a conflict of interest. Districts can use the SELPA form, *Educational Representative (Surrogate Volunteer) Information/Registration* (SELPA33), in the forms section of this chapter to assist in making a determination if there is a conflict of interest.

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

When appointing a Surrogate Volunteer the district shall, as a first preference, select a relative caretaker, foster parent or court appointed special advocate, if any of these individuals exist and is willing and able to serve. 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 education agency shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the child.

## **RECRUITING SURROGATE VOLUNTEERS**

Each district will recruit its own Surrogate Volunteers based on certification and recommendation by SBCSELPA. The district administrator will send a list of potential Surrogate Volunteers to the SBCSELPA. The SBCSELPA will maintain an updated master list of trained or potential Surrogate Volunteers. Surrogate Volunteers essentially belong to the district that did the recruiting. Use of a Surrogate Volunteers by another district will occur only by mutual agreement of both district administrators.

The following resources are recommended for locating potential Surrogate Volunteers:

- Local school parent associations
- Community Advisory Committee (CAC)
- Retired Teachers Associations
- Rotary, Lions, Kiwanis
- Big Brother, Big Sisters, Foster Grandparents
- American Association of University Women (AAUW)
- University graduate students
- Parents/foster parents of other special education students

## **ROLE OF SURROGATE VOLUNTEERS**

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 and revising the IEP, and in all other matters relating to the provision of free appropriate public education of the child. This representation includes providing written consent to the IEP including non-emergency medical services, AB 3632/2726 mental health services and occupational or physical therapy services provided through California Children Services.

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

The surrogate parent shall comply with all federal and state laws pertaining to confidentiality of student records and shall use discretion in any necessary sharing of information with appropriate individuals for the purpose of furthering the interests of the child.

## **LIABILITY**

Surrogate Volunteers are held harmless when acting in their official capacity except in acts or omissions found to have been wanton, reckless, or malicious (Government Code 7579.5(l))

## **ACCESS TO RECORDS**

The Surrogate Volunteers will be able to review the student's education records at the school or district. They will be given a copy of the student's current IEP. At the end of their term, the district will request that all copies of IEPs be returned to the IEP chairperson.

## **TRAINING SURROGATE VOLUNTEERS**

The Santa Barbara County SELPA will conduct training and ongoing consultation with potential Surrogate Volunteers in the following areas:

- Surrogate Parent Law
- Cultural Sensitivity
- IEP process



- Team Process/Team Building
- Procedural Safeguards
- Surrogate Volunteer Evaluation

A SELPA, Surrogate *Volunteer Training Certificate* (SELPA23), will be issued to persons who successfully pass the SELPA *Surrogate Volunteer Post Test* (SELPA26). (See forms section of this chapter for sample certificate and Post Test)

<p><b>TERM OF SURROGATE VOLUNTEER APPOINTMENT</b></p>
---

A Surrogate Volunteer’s term of appointment will be for one academic year or if applicable until the end of the extended school year session. The district will be responsible for monitoring the Surrogate Volunteers and determining if the term of appointment should be renewed. A Surrogate Volunteer’s appointment will be automatically terminated at the end of each school year or for any of the following reasons:

- Conflict of interest.
- Student is no longer eligible for special education.
- Another responsible adult is appointed to make educational decisions for the student.
- Surrogate Volunteer does not perform duties adequately, as per the SELPA form, *Surrogate Volunteer Evaluation* (SELPA25).
- Parent is located and/or
- The student reaches the age of 18 unless the student is deemed by a court to be incompetent.

If the student reaches age 18 and the student chooses not to make educational decisions for himself or herself, the surrogate may continue to act on the student’s behalf.

Any parent or guardian who maintains the right to make educational decisions for his or her child may designate another adult to represent the interests of the child for purposes of educational and related services. In such cases, the SELPA form, *Appointment of Educational Representative* (SELPA22), should be used.

## WHAT FORMS SHOULD BE USED

The following forms should be used as part of the Surrogate Volunteer appointment, training and evaluation process:

SELPA52: Memo to Licensed Children's Institutions (LCI's) and Foster Family Homes (FFH's)

SELPA53: Memo to Agencies Requesting Specific Information

SELPA54: Request for information from Non-educational Agency

SELPA20: Notification of Placement of Individual with Exceptional Needs in Licensed Children's Institutions or Foster Family Homes

SELPA33: Educational Representative/Surrogate Volunteer Information/Registration (E)

SELPA26: Surrogate Volunteer – Post Test (E)

SELPA23: Surrogate Volunteer Training Certificate (E)

SELPA24: Appointment/Acceptance of Surrogate Volunteer (E)

SELPA25: Surrogate Volunteer Evaluation (E)

SELPA22: Appointment of Educational Representative (E & S)

### NOTE

**E** = *ENGLISH* and **S** = *SPANISH*

Appendix A references the forms highlighted throughout this handbook. SELPA and Supplemental IEP forms can be found on our county's on-line *SIRAS Systems*, [www.sirassystems.org](http://www.sirassystems.org).