



64<sup>TH</sup> CONFERENCE ON EXCEPTIONAL CHILDREN

**WORKING TOGETHER  
TO ACHIEVE STUDENT SUCCESS**

**Surrogate Parents:  
Who, What, When, Where  
and Why**

Heather Ouzts  
Parent Liaison: Alamance-Burlington School System  
Carol Ann M. Hudgens  
NCDPI: Exceptional Children

PUBLIC SCHOOLS OF NORTH CAROLINA  
State Board of Education | Department of Public Instruction

NOVEMBER 3-5, 2014

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**Outline**

- Who is the parent?
- What is a surrogate parent?
- When do you need a surrogate parent?
- Where are surrogate parents managed?
- Why do we need surrogate parents?

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**WHO is the parent?**

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**Parent: True/False**

A biological or adoptive parent of a child

**TRUE**

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**Parent: True/False**

A traditional foster parent

**IT DEPENDS**

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**Parent: True/False**

A therapeutic foster parent

**FALSE**

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**Parent: True/False**

A guardian authorized to act as a child's parent or authorized to make educational decisions

**TRUE**

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**Parent: True/False**

A Department of Social Services case worker

**FALSE**

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**Parent: True/False**

A guardian ad litem

**IT DEPENDS**

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Parent: True/False

A group home representative

**FALSE**

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Parent: True/False

An individual acting in the place of a biological or adoptive parent (**grandparent or relative**) with whom the child lives, or an individual who is legally responsible for the child's welfare

**TRUE**

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Parent Rights

- Any time you have a **STUDENT THAT IS LIVING WITH SOMEONE OTHER THAN HIS OR HER BIOLOGICAL OR ADOPTIVE PARENT**, you must verify whether or not parental rights have been terminated.

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## NC 1500-2.24 Parent

(a) Parent means--

1. A biological or adoptive parent of a child;
2. A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent (e.g. therapeutic foster parent);
3. A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
4. An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
5. A surrogate parent who has been appointed in accordance with § 300.519 or section 639(a) (5) of the Act.

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(b) 1. Except as provided in paragraph (b) (2) of this section, **the biological or adoptive parent**, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, **must 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.

(b) 2. If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1)through (4) of this section to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of this section.

*(Authority: 20 U.S.C. 1401(23); 34 CFR 300.30)*

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## NC 1500-2.39 Ward of the State

(a) **General.** Subject to paragraph (b) of this section, ward of the State means a child who, as determined by the State where the child resides, is--

- (1) A foster child;
- (2) A ward of the State; or
- (3) In the custody of a public child welfare agency.

(b) **Exception.** Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent in NC 1500-2.24.

*(Authority: 20 U.S.C. 1401(36); 34 CFR 300.45)*

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### What is the difference?

• Custodial Rights

A court's determination of which parent, relative or other adult should have physical and/or legal control and responsibility for a minor (child) under 18.

- Physical
- Legal
- Sole
- Joint
- Protective

• Parental Rights

The legal obligations and responsibilities that apply to the parent of a child. They can include caring for the child, protecting the child, feeding the child, consenting to medical care, and having physical custody of the child. There are additional legal obligations of caring for a child such as ensuring that they attend school and receive proper medical treatment if they are injured.

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# WHAT is a surrogate parent?

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### Surrogate Parents

- A Surrogate Parent is recommended by the local school system or Local Education Agency (LEA) to act in the place of the student's parents.
- Surrogate parents **MUST BE TRAINED** to assist students with disabilities through the education process.
- Surrogate parents participate in IEP (Individualized Education Program) meetings to ensure the child obtains a free and appropriate education (FAPE).
- Surrogate parents need to have access to information, training, and support so that they may develop the knowledge, skills, and confidence necessary to advocate effectively for children with disabilities.

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### What are the responsibilities of a Surrogate Parent?

- Review all education records and reports relating to the child and evaluate the child's needs.
- Participate in the planning and development of the child's IEP.
- Ongoing review of educational progress.
- Represent the child in any mediation, appeals, and/or due process proceedings.

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### A surrogate parent has the right to:

- Review all educational records and reports relating to the child.
- Receive copies of IEPs and evaluations.
- Represent the child in any mediation appeals, and/or due process procedures.
- Check on the child's educational progress during the school year; for example, are the IEP objectives being met or are the services being provided that are listed on the IEP?

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### Important Reminder:

**ALL SURROGATE PARENT VOLUNTEERS** are required to adhere to **confidentiality** safeguards concerning information about the child.

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### What are the Qualifications of a Surrogate Parent?

A Surrogate Parent Should:

- Understand that individuals with disabilities have the right to education programs that will provide educational benefit.
- Be willing to listen to the student, agency representatives, and school personnel and *act in the best interest of the child*.
- Have the knowledge and skills necessary to ensure that the child is adequately represented.

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### A Surrogate Parent **cannot**:

- Have an interest that conflicts with the interests of the child, or...
- Be an employee of the state education agency, local education agency or any other agency responsible for, or involved in, the education or care of the child, such as the Dept. of Health and Human Services.

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## WHEN do you need a surrogate parent?

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**A child with a disability requires a Surrogate Parent when:**



- No parent can be identified
- The parent cannot be located
- The child is a ward of the state, **AND** the parents rights have been terminated.
- The child is an unaccompanied homeless youth.

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**Group Activity**

- Who is the “parent”?
- Is a surrogate needed?

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**WHERE are surrogate parents managed?**

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## Alamance-Burlington School System

**Heather Ouzts**  
*Parent Liaison/Surrogate Parent Coordinator*




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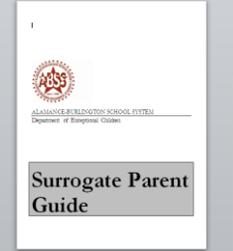
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## Training STAFF

- ABSS Surrogate Parent Guide




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## What should guide include?

- Definitions
- Guiding practices
- Procedures
- Forms

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### WHO needs to know?

- EC Leadership
- Administrators
- EC Department Chairs
- EC Teachers (Case Managers)

*\*Important for EC Chairs to share information with other school support staff, such as school social workers, when parental rights are in question.*

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### WHAT do they sign?

- **ONLY formal special educational/DEC forms!**
- They do not sign permission slips and other school communications.

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### WHO determines status of parental rights?

- EC Department Chairs at each school are trained by Surrogate Parent Coordinator.
- Case Managers should always consult with EC Chair.
- EC Chair contacts Coordinator with questions.

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## WHY do they contact Coordinator?

- Verify parental rights have been determined.
- Make sure proper questions have been asked.
- “GRAY AREAS”
- DOCUMENTATION
  - Student’s file
  - Central Office

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## Guiding Practices

- Traditional foster parents can only serve as “parent” IF ALL PARENTAL RIGHTS HAVE BEEN TERMINATED.
- Therapeutic foster parents or agents of NC Dept. of Social Services may NOT act as surrogate parents under any circumstances.
- Unless they are a relative with whom the child resides, employees of group homes, DSS, Mental Health, or the LEA, and therapeutic foster parents may not serve as the parent or be appointed as surrogates.
- Guardian ad litem may NOT act as surrogate parent for students on his/her case load, but may volunteer as a surrogate for other students. *(Only exception is if the court order gives them specific rights to make educational decisions.*

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## Have you asked the proper questions?

- There is a difference between “custodial rights” and “parental rights.”
  - A parent may have lost custodial rights to the child, but that does not mean they have lost ALL parental rights to make educational decisions.
  - DSS (DSS Case Managers) can help with determining status of parental rights and providing parent contact information.
  - The key question to ask: “Is this child eligible for adoption?” If not, then the parent most likely still has rights.
  - **Note: Incarceration does NOT terminate parental rights!**
- **DSS should be able to provide documentation if ALL parental rights have been terminated!**

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## Send out an ALL CALL!

- PARENTS of EC Students (current & former)
- Community Organizations
- Faith Community




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## Welcome to Surrogate Parent Training



**Providing Meaningful Support  
to Students and IEP Teams**

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## What do they need to know?

1. The IEP (Individualized Education Plan)
2. IEP Team meeting
3. Discipline for students with disabilities
4. Procedural safeguards and due process

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## Ask questions!

THE IEP EXPLAINS HOW THE LRE IS A COMBINATION OF A SPED AND MAINSTREAM CLASSROOM WITH SUPPORTS FROM THE CTE, PPT, AND SLIP... AND OF COURSE... ERA AND BIP... GOAL... OF INCREASED... AS PER...

HERE IS A SO-FAR COPY OF YOUR RIGHTS. NOW SIGN HERE...AND HERE...AND HERE...AND HERE...

U...OK?

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## Important Reminder:

**ALL SURROGATE PARENT VOLUNTEERS** are required to adhere to **confidentiality** safeguards concerning information about the child.

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## Surrogate Parent Responsibilities Statement

- Page 11 in handout
- States that they have been trained and understand responsibilities and confidentiality safeguards.
- Signed copy in student's file and in Coordinator's files.

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## ONLINE TRAINING

**The PACER Center: Champions for Children with Disabilities**




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### The Parent Role in Special Education: Who Takes this Role for Foster Children? (video)

*A brief overview of the special education laws regarding who may take on the role of parent for a child with a disability who may not have a biological or adoptive parent to serve in that role.*

<http://www.pacer.org/flashplayer/?video=2011-12-08Surrogate%20Video.flv>

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## Online Training Resource

This training module is a guide for training surrogate parents. It includes information on the laws and procedures for representing a child in the special education process.

<http://www.pacer.org/surrogate/surrogateonline/training/page2.asp>

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# Why do we need surrogate parents?

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## It's the LAW!

**§ 300.519 Surrogate parents.**

(a) *General.* Each public agency must ensure that the rights of a child are protected when—

- (1) No parent (as defined in § 300.30) can be identified;
- (2) The public agency, after reasonable efforts, cannot locate a parent;
- (3) The child is a ward of the State under the laws of that State; or
- (4) 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)).

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## Questions?




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# **WORKING TOGETHER** **TO ACHIEVE STUDENT SUCCESS**

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## Alamance-Burlington School System SURROGATE PARENT GUIDE

**For more information, please contact:**

**Heather Ouzts**

**EC Parent Liaison/Surrogate Parent Coordinator**

Department of Exceptional Children

Sellars-Gunn Education Center

Office: 336-438-4000 ext. 37840

[Heather\\_Ouzts@abss.k12.nc.us](mailto:Heather_Ouzts@abss.k12.nc.us)



# What is a surrogate parent?

**Surrogate Parents are volunteers who serve as “parent” for students with disabilities who are under state guardianship, or whose parents are unknown or otherwise unavailable.**

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- A child with a disability requires a Surrogate Parent when:
  - No parent can be identified,
  - The parent cannot be located,
  - The child is a ward of the state, **AND** the parents rights have been terminated, or
  - The child is an unaccompanied homeless youth.
- **They serve in the “parent” role only in special educational decisions within the context of the IEP process.**
  - Surrogate parents **CANNOT** sign other school forms, such as permission forms for field trips or other activities.
- Surrogate parents participate in IEP (Individualized Education Program) meetings to ensure the child obtains a free and appropriate education (FAPE).
- Surrogate parents must be trained to assist students with disabilities through the education process.
- Surrogate parents need to have access to information, training, and support so that they may develop the knowledge, skills, and confidence necessary to advocate effectively for children with disabilities.

# Responsibilities of a Surrogate Parent

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**A surrogate parent is only responsible for representing the child when decisions about his/her special education program are made concerning:**

- Identification of the need for the child to receive special education services
- Evaluation to determine his/her individual needs
- Design of his/her IEP (Individualized Education Program), including placement
- Ongoing reviews of educational progress
- Disagreement with the school's educational proposals

In order to fulfill these responsibilities, the surrogate parent should learn about state and federal requirements for special education and about school district structure and procedures.

The surrogate parent should also have an understanding of the student's disability and needs and have an ability to effectively advocate for the child.

**Note: A surrogate parent has the right to:**

- Review all educational records and reports relating to the child.
- Receive copies of IEPs and evaluations.
- Represent the child in any mediation appeals, and/or due process procedures.
- Check on the child's educational progress during the school year; for example, are the IEP objectives being met or are the services being provided that are listed on the IEP?

**NOTE: A surrogate parent is required to adhere to confidentiality safeguards concerning information about the child.**

# Who can serve as “parent,” if a child is no longer living in the home of the biological or adoptive parent?

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Guiding Practices (See NC 1500-2.24 and NC 1504-1.20)

- **There is a distinction between custodial rights and educational rights.** A parent’s custodial rights may be removed; however, unless educational rights have specifically been revoked, the parent retains decision-making rights under IDEA.
- Non-custodial parents may continue to attend IEP team meetings; unless the court has terminated ALL of their parental rights (the child is available for adoption).
- Any time parental rights have been terminated by the court, a surrogate is appointed unless another individual, who meets the definition of parent in NC 1500-2.24, can serve in that role.
- Traditional foster parents can only serve as “parent” IF ALL PARENTAL RIGHTS HAVE BEEN TERMINATED.
- **Therapeutic foster parents or agents of NC Dept. of Social Services may NOT** act as surrogate parents under any circumstances.
- Unless they are a relative with whom the child resides, **employees of group homes, DSS, Mental Health, or the LEA, and therapeutic foster parents may not serve as the parent or be appointed as surrogates.**
- **Guardian ad litem** may NOT act as surrogate parent for students on his/her case load, but may volunteer as a surrogate for other students. *(The only exception is if the court order specifically states that they can make educational decisions.)*
- See **Flow Chart** for more information.

# NC Definition of PARENT

THIS DEFINITION CLARIFIES WHO CAN MAKE EDUCATIONAL DECISIONS FOR A STUDENT.

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## NC 1500-2.24 Parent

(a) Parent means--

1. A biological or adoptive parent of a child;
2. A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent (e.g. therapeutic foster parent);
3. A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);
4. An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or
5. A surrogate parent who has been appointed in accordance with §300.519 or section 639(a)(5) of the Act.

(b)

- (1) Except as provided in paragraph (b) (2) of this section, **the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must 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.**
- (2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of this section.

*(Authority: 20 U.S.C. 1401(23); 34 CFR 300.30)*

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## NC 1500-2.39 Ward of the State

(a) **General.** Subject to paragraph (b) of this section, ward of the State means a child who, as

determined by the State where the child resides, is--

- (1) A foster child;
- (2) A ward of the State; or
- (3) In the custody of a public child welfare agency.

(b) **Exception.** Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent in NC 1500-2.24.

*(Authority: 20 U.S.C. 1401(36); 34 CFR 300.45)*

# IS A SURROGATE NEEDED?

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## STATUS OF PARENTAL RIGHTS OF THE BIOLOGICAL OR ADOPTIVE PARENT MUST BE DETERMINED!!

- **There is a difference between “custodial rights” and “parental rights.”**
    - A parent may have lost custodial rights to the child, but that does not mean they have lost ALL parental rights to make educational decisions.
    - DSS (DSS Case Managers) can help with determining status of parental rights and providing parent contact information.
    - The key question to ask: “Is this child eligible for adoption?” If not, then the parent most likely still has rights.
    - Note: Incarceration does NOT terminate parental rights!
  - **DSS should be able to provide **documentation** if ALL parental rights have been terminated!**
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### **IF RIGHTS WERE NOT TERMINATED:**

- **Biological or adoptive parent has educational decision-making rights and must be invited!**
- **IF the parent *cannot be found or chooses not to participate*, a surrogate may or may not be needed depending on circumstances. (*Ask Coordinator for clarification. See Flow Chart.*)**

### **ONLY IF PARENTAL RIGHTS HAVE BEEN TERMINATED:**

- A **family member** the child is living with can make educational decisions, under the state definition of parent.
- **Traditional** foster parents may make educational decisions.
- ***Guardian ad litem may NOT act as surrogate parent for students on his/her case load***, but may volunteer as a surrogate for other students. (*The only exception is if the court order specifically states that they can make educational decision.*)
- Therapeutic foster parents may **NOT** act as surrogate parent. A surrogate parent must be appointed if the child is living in therapeutic foster care.

# Therapeutic Foster Care

Therapeutic foster parents cannot serve as surrogate parents because there is a conflict of interest. Determining services that a child needs at school could impact the services the child needs at home, therefore potentially creating a benefit for the therapeutic foster parent.

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**NC Division of Social Services** <http://www.dhhs.state.nc.us/dss/licensing/index.htm>

## **Licensing Rules**

Administrative Rules for Family Foster Homes, Therapeutic Foster Homes and Adoptions are found in North Carolina Administrative Code Chapter 10A, Subchapters 70F, 70G, 70H and 70E.

## **SUBCHAPTER 70E – LICENSING OF FOSTER HOMES**

### **SECTION .0600 – GENERAL**

#### **10A NCAC 70E .0601 SCOPE**

- (a) The North Carolina Department of Health and Human Services, Division of Social Services is the licensing authority for family foster homes and therapeutic foster homes.
- (b) The rules in this Subchapter apply to the licensing of family foster homes and therapeutic foster homes and those persons who receive children for the purpose of placement in family foster homes and therapeutic foster homes.

#### **10A NCAC 70E .0602 DEFINITIONS**

Except when the context of the Rule indicates that the term has a different meaning the following definitions shall apply to the rules in Subchapter 70E:

- (1) “Agency” means a child placing agency as defined in G.S. 131D-10.2 that is authorized by law to receive children for purposes of placement in foster homes or adoptive homes.
- (2) “Family Foster Home” has the meaning as defined in GS 131D-10.2 (8).
- (3) “Family Foster Care” means a planned, goal-directed service in which the temporary protection and care of children take place in a family foster home. Family foster care is a child welfare service for children and their parents who must live apart from each other for a period of time due to abuse, neglect, dependency, or other circumstances necessitating out-of-home care.
- (4) “Licensing Authority” means the North Carolina Division of Social Services.
- (5) “Owner” means any person who holds an ownership interest of five percent or more of the applicant. A person includes a sole proprietor, co-owner, partner or shareholder, principal or affiliate, or any person who is the applicant or any owner of the applicant.
- (6) “Supervising Agency” means a county department of social services or a private child- placing agency that is authorized by law to receive children for purposes of placement in foster homes or adoptive homes. Supervising agencies are responsible for recruiting, training, and supporting foster parents. Supervising agencies recommend the licensure of foster homes to the licensing authority.

**(7) “Therapeutic Foster Care” means a foster home where the foster parent has received additional training in providing care to children with behavioral mental health or substance abuse problems.**

# Surrogate Parent Request Procedure

## WHEN A SURROGATE PARENT IS NEEDED:

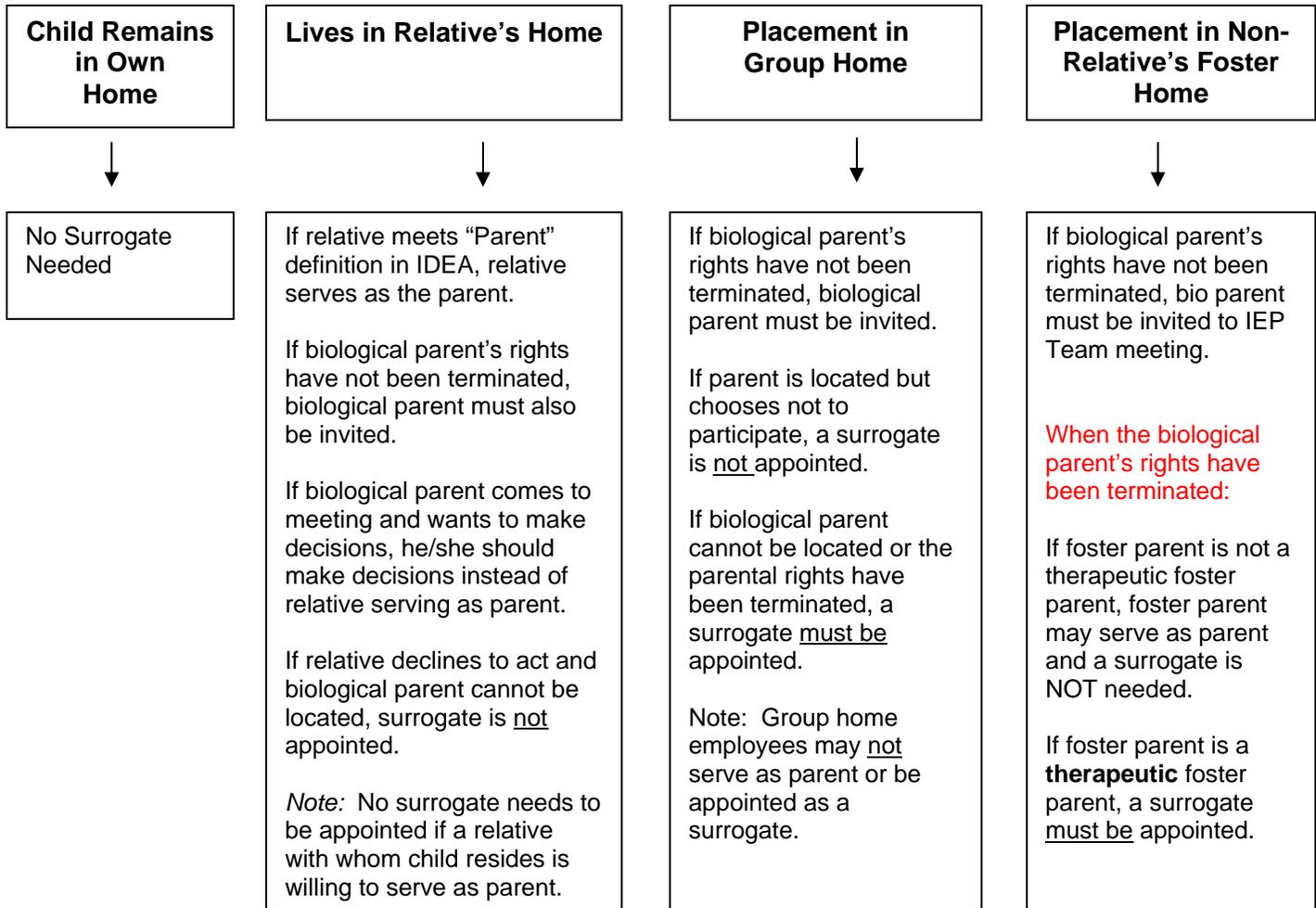
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- 1) The Case Manager should ALWAYS consult with the EC Chair to verify the status of parental rights.
- 2) Please ask for DOCUMENTATION from DSS that parental rights have been terminated. They should be able to provide it. Make sure a copy is in the student's file.
- 3) If a surrogate is needed, the EC Chair will contact the Surrogate Parent Coordinator to discuss status of parental rights and request a volunteer.
- 4) The EC Chair must email a **Surrogate Parent Request Form** to the EC Department at \_\_\_\_\_.
- 5) The request form must be approved and signed by the Executive Director.
- 6) A copy of the signed request form will be sent to the case manager to put into the student's file for documentation.
- 7) The surrogate parent should sign the **Surrogate Parent Responsibilities Statement** at the meeting. The EC Chair should put a copy of the signed statement in the student's folder and send a copy to the Surrogate Parent Coordinator to keep on file.
- 8) ***ALL surrogate parent volunteers must be coordinated through the EC Department.*** (Records need to be kept regarding the number of students each volunteer is serving and to allow for consistency in the student's representation.) Even if a volunteer has been assigned in the past, please coordinate through the EC Department for record-keeping purposes and to make sure the volunteer is still trained and available.
- 9) Please allow adequate time to find a volunteer, preferably two weeks or more.

**Surrogate Parent Coordinator:** \_\_\_\_\_

## When Do I Appoint a Surrogate Parent?

### PROTECTIVE SUPERVISION or FOSTER CARE PLACEMENT



- Non-custodial parents may continue to attend IEP Team meetings unless the court has terminated their parental rights (the child is available for adoption).
- Any time parental rights have been terminated by the court, a surrogate is appointed unless another individual, who meets the definition of parent in NC 1500-2.24, can serve in that role.
- Unless they are a relative with whom the child resides, employees of group homes, DSS, Mental Health, or the LEA, and therapeutic foster parents may not serve as the parent or be appointed as surrogates.

## Surrogate Parent Request Form

To: \_\_\_\_\_, Executive Director  
Department of Exceptional Children

Student Name \_\_\_\_\_ School \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

Area of Identification \_\_\_\_\_ Setting \_\_\_\_\_

Related Services \_\_\_\_\_

Teachers Name(s) \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_

Surrogate Parent Name \_\_\_\_\_

Address \_\_\_\_\_

Phone Number \_\_\_\_\_ Relationship to Student \_\_\_\_\_

The above person has been appropriately trained to provide surrogate parent services to the EC student above. Please provide them with as much information as possible so that they may do an effective job as the surrogate parent.

Date of assignment \_\_\_\_\_

Executive Director to initial \_\_\_\_\_

## SURROGATE PARENT RESPONSIBILITIES STATEMENT

**Name of Surrogate Parent:** \_\_\_\_\_

**The Department of Exceptional Children within the Alamance-Burlington School System appointed you to serve as surrogate parent for:**

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*Name of Child*

**As a surrogate you will be expected to:**

1. Become acquainted with the eligible child, including his/her disability, his/her early intervention records and needs, and his/her cultural and language background;
2. Represent the child in all IEP meetings, and other meetings relating to the identification, evaluation, and placement services for the child;
3. Ensure the CONFIDENTIALITY of information and records concerning the child;
4. Be able to make sufficient time available to carry out the duties of a surrogate parent;
5. Have sufficient knowledge and skills to execute these responsibilities and to seek additional consultation and training as needed;
6. Maintain a file containing the child's records and a record of your activity as the surrogate parent. You will forward the file upon termination of your appointment as surrogate parent to the local education agency's special education office;
7. Notify the local special education office whenever you have reason to believe that a conflict of interest exists with respect to your appointment; and
8. Review the Surrogate Parent Training materials provided by the local education agency office.

**Consultation to assist you in your duties is available from our EC Department by contacting:**

**Parent Liaison/Surrogate Parent Coordinator**

**The surrogate parent has no interest that conflicts with the interest of this child and meets all other parent qualifications and agrees to the stated responsibilities and confidentiality safeguards.**

**Surrogate Parent Signature** \_\_\_\_\_ **Date:** \_\_\_\_\_