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# Surrogate Parents



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

## Department of Health and Social Services

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**TO:** Alaska Early Intervention/Infant Learning Program Providers  
**FROM:** Laurie Thomas, M.Ed. EI/ILP Manager, Part C Coordinator  
**SUBJECT:** Guidance Memo #5: **Children in Out-of-Home Placement**

### **When is a surrogate parent needed and who assigns the surrogate parent?**

Whenever a child who is living in an out of home placement is referred to EI/ILP, the possible need for a surrogate parent must be considered. EI/ILP must ensure the rights of a child are protected by assigning a surrogate parent when no parent, as defined in 34 CFR 303.27, can be identified, or when the local EI/ILP provider cannot locate a parent after reasonable efforts, or the child is a ward of the state.

As defined in DHSS EI/ILP Policies, section VII.33, ward of the state means a child who, as determined by Alaska, is a foster child, a ward of Alaska, or in the custody of a public child welfare agency, with the following exception: A foster parent meets the definition of 'parent' in the State of Alaska and there is no need to assign a surrogate parent.

### **What is the criterion for selecting surrogate parents?**

After determining the need for a surrogate parent, the local EI/ILP must assign a surrogate parent within thirty days. (34 CFR 303.422(g)) The local EI/ILP provider must document the surrogate parent assignment in the child contact record and in the EI/ILP database. EI/ILP must ensure that a person selected as a surrogate parent:

- a. Is not an employee of any agency that provides early intervention services, education, care, or other services to the child or any family member of the child;
- b. Has no personal or professional interest that conflicts with the interests of the child;
- c. Has knowledge and skills that ensure adequate representation of the child

Assigning a surrogate who is a member of the child's family or a longtime family friend is generally preferable to individuals who have never met the child.

EI/ILP staff must complete the *Surrogate Parent Form*. (Attached)

When must a surrogate parent be assigned to represent the child?	When can the foster parent represent the child?
<ul style="list-style-type: none"> <li>Any time a child is living in group care such as a ‘children’s home’ where the biological parent is not present and not available.</li> </ul>	<ul style="list-style-type: none"> <li>The Foster Parent, which may include placement with relatives, meets the definition of ‘parent’ and may act on behalf of the child within limitations described below.</li> </ul>
<p><b>When a child is in out of home placement, who can sign consent for release of health records?</b></p>	
<p>I. Surrogate [and foster] parent responsibilities (34 CFR 303.422(f))</p> <ol style="list-style-type: none"> <li>The surrogate parent has the same rights as a parent for all purposes under Part C of IDEA.</li> <li>The surrogate parent represents the child in all matters related to:               <ol style="list-style-type: none"> <li>Evaluation and assessments of the child,</li> <li>Development and implementation of the child’s IFSP, including annual evaluations and periodic reviews of the IFSP,</li> <li>The ongoing provision of early intervention services to the child, and</li> <li>Any other rights established under Part C of IDEA.</li> </ol> </li> <li><u>The surrogate [or foster] parent does not have authority to make health related decisions, including consent to release the child’s health records, unless a judge has appointed this person to make health related decisions for the child.</u></li> </ol> <p>In implementing services for children who are in out of home placements, the family service coordinator must consult with the OCS case worker assigned to the child. (34 CFR 303.422(b)) The State of Alaska’s Office of Children’s Services (OCS) requires that the caseworker assigned to a child in custody be responsible for approval of the release of medical and health-related records. (CPS Manual section 6.1.2 procedure (A)(11))</p>	
Examples of what the documents the foster or surrogate parent may approve	Examples of documents the CPS caseworker must approve
<ul style="list-style-type: none"> <li>The Individualized Family Service Plan</li> <li>Permission for Assessment</li> <li>Release for educational records being received or sent to school districts as a part of the transition process. (including OT, PT, SLP, or mental health practitioner’s records generated by ILP staff &amp; contractors)</li> <li>Release for educational records being sent to a receiving early intervention program (including OT, PT, SLP or mental health practitioner’s records generated by ILP staff &amp; contractors).</li> </ul>	<ul style="list-style-type: none"> <li>Release for records from a physician</li> <li>Release for records from a public health nurse</li> <li>Release for records from an OT, PT, or SLP, or mental health practitioner <u>not employed or under contract</u> with the local EI/ILP.</li> <li>Consent to Bill Public and/or Private Insurance.</li> </ul>

## **Federal Regulations**

### **§ 303.422 Surrogate parents.**

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

(1) No parent (as defined in § 303.27) can be identified;

(2) The lead agency or other public agency, after reasonable efforts, cannot locate a parent; or

(3) The child is a ward of the State under the laws of that State.

(b) *Duty of lead agency and other public agencies.* (1) The duty of the lead agency, or other public agency under paragraph (a) of this section, includes the assignment of an individual to act as a surrogate for the parent. This assignment process must include a method for—

(i) Determining whether a child needs a surrogate parent; and

(ii) Assigning a surrogate parent to the child.

(2) In implementing the provisions under this section for children who are wards of the State or placed in foster care, the lead agency must consult with the public agency that has been assigned care of the child.

(c) *Wards of the State.* In the case of a child who is a ward of the State, the surrogate parent, instead of being appointed by the lead agency under paragraph (b)(1) of this section, may be appointed by the judge overseeing the infant or toddler's case provided that the surrogate parent meets the requirements in paragraphs (d)(2)(i) and

(e) of this section.

(d) *Criteria for selection of surrogate parents.* (1) The lead agency or other public agency may select a surrogate parent in any way permitted under State law.

(i) Is not an employee of the lead agency or any other public agency or

(2) Public agencies must ensure that a person selected as a surrogate parent—  
EIS provider that provides early intervention services, education, care, or other services to the child or any family member of the child;

(ii) Has no personal or professional interest that conflicts with the interest of the child he or she represents; and

(iii) Has knowledge and skills that ensure adequate representation of the child.

(e) *Non-employee requirement; compensation.* A person who is otherwise qualified to be a surrogate parent under paragraph (d) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(f) *Surrogate parent responsibilities.* The surrogate parent has the same rights as a parent for all purposes under this part.

(g) *Lead agency responsibility.* The lead agency must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

(Authority: 20 U.S.C. 1439(a)(5))

# Surrogate Parent Documentation

*This section to be completed by the Infant Learning Program:*

RE: \_\_\_\_\_ DOB \_\_\_\_\_  
*Child's name*

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*This section to be completed by Child's Social Worker or their Designated Representative:*

This is to notify you that \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)  
is in the legal custody of the State of Alaska.

For this reason, the above-named child is in need of a surrogate parent and to the best of my knowledge:

1. \_\_\_\_\_ There is no one within the child's immediate family/environment who could serve as a surrogate parent at this time.
2. \_\_\_\_\_ The following person within the child's immediate family/environment could serve as a surrogate parent:  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Relationship: \_\_\_\_\_
3. \_\_\_\_\_ There is someone within the child's immediate family/environment that could serve as a surrogate parent but I cannot disclose their personal information. I will contact them and get back to you.

If further information is needed you can contact me at \_\_\_\_\_.

\_\_\_\_\_  
*Social Worker's Name*

\_\_\_\_\_  
*Signature*

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

# Infant Learning Program

## Request for Assignment of a Surrogate Parent

**Child's Name:** \_\_\_\_\_ **Age:** \_\_\_\_\_

**Ethnic Background:** \_\_\_\_\_ **DOB:** \_\_\_\_\_

**ILP Family Service Coordinator:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Social Worker:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Where Child Resides:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Foster Parents:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Natural Parent, Relative or Other Individual Who Could be a Surrogate Parent for this Child:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Date by which the surrogate parent is needed:** \_\_\_\_\_

**Name of person making the request:** \_\_\_\_\_ **Date:** \_\_\_\_\_

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**Surrogate Assigned:** \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State, Zip)

\_\_\_\_\_ (Work Phone) \_\_\_\_\_ (Home Phone)

**ILP Coordinator Approval:** \_\_\_\_\_  
(Signature) (Date)

Note: This form is to be used in-house when an ILP staff person determines that a child needs a surrogate parent. The top half is to be completed by the staff person assigned to the child. The bottom half is completed and signed by the program coordinator when the surrogate parent is identified. A copy of this form must be placed in the child's file when completed.