



Surrogate Parent Training

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Legal Background

- Individuals with Disabilities Education Act (IDEA) (1997)
- Family Educational Rights and Privacy Act (FERPA) (199_)

The Individual with Disabilities Education Act is sometimes called IDEA. IDEA was passed by the US Congress in 1990 and reauthorized in 1997. The purpose of the law is to outline for state and local education agencies how to identify and provide services for disabled students. One of the requirements of IDEA is to assign a surrogate parent to students who have no parents or guardians to represent them in educational decision-making.

The Family Educational Rights and Privacy Act was passed by Congress in 1974 and amended in 1999. It is sometimes called FERPA. FERPA outlines the responsibilities of the public agencies to keep confidential information that is gathered from or about student records.

Assignment of a Surrogate Parent

- No parent can be identified
- The school district cannot determine the whereabouts of a parent after reasonable attempts to do so, or
- The child is a ward of the state

One of the initial steps in determining if a student may need special education services is to determine who can make educational decisions for the student. The natural parent, the guardian or someone recognized by the school as "Acting as the parent" is usually determined to be the student's decision-making representative. However, in some cases, a student representative can not be identified for a child and then the school must assign a surrogate parent for the student. The assignment of a surrogate parent occurs when:

- a.No parent can be identified
- b.The district cannot determine the whereabouts of a parent after reasonable attempts to do so
- c.The child is a ward of the state. A child becomes a ward of the state when parental rights have been terminated by a court competent jurisdiction.

Surrogate Parent Responsibilities

As a surrogate parent, your responsibilities will be to represent the student in all matters relating to the identification, evaluation, and placement of the child so that he or she receives a free appropriate public education.

Surrogate Parent Responsibilities

- Receive notice of proposed or refused actions.
- Provide or deny consent in writing.
- Participate in the Admission and Release Committee (ARC) meeting acting as the parent of the student.

As a surrogate parent you will receive a written invitation to attend an Admission and Release Committee meeting. This is sometimes called an ARC meeting or ARC. The invitation will include the date, time, place for the meeting, as well as stating the purpose of the meeting. IDEA 97 refers to this invitation as the notice of proposed or refused actions.

IDEA 97 requires that written parental consent be obtained by the local education agency before any evaluation, and before initial services are provided.

As the surrogate parent of a student you will be expected to attend any ARC meeting concerning the student and to help in the decision making for the student's educational plan.

Surrogate Parent Responsibilities

- Maintain confidentiality of information about the student.
- Request an independent educational evaluation for the student, if necessary.
- Request mediation and/or impartial due process hearing on any matter concerning the identification, evaluation, placement or provision of the child's free appropriate public education.

The surrogate parent must follow the guidelines concerning confidentiality that are outlined in IDEA 97 and FERPA. The surrogate parent should not discuss the student's educational records except when necessary in making educational decisions.

The local educational agency through the ARC (process) meeting may decide to complete an individual evaluation of the student that has been assigned a surrogate parent. The surrogate parent may request that an additional independent evaluation be conducted if necessary.

If the local education agency and the surrogate parent can not agree on the educational issues, then the surrogate parent may request mediation and/or an impartial due process hearing.

Surrogate Parent Criteria

Surrogate Parent Criteria

- Commit to personally and thoroughly acquaint themselves with the student's educational needs.
- Possess the necessary knowledge and skills to effectively represent the student
- Be familiar with the educational system

Any surrogate parent must commit to personally and thoroughly acquaint themselves with the student's educational needs.

The surrogate parent must possess the necessary knowledge and skills to effectively represent the student. If the surrogate parent is lacking any knowledge or skill, they must be willing to receive training in these areas. The local education agency provides training for all surrogate parents.

In order to effectively represent the student, the surrogate parent must be familiar with the educational system in which the student is enrolled or may enroll.

Surrogate Parent Criteria

- Be readily accessible to the student
- Have no conflicting or vested interest

Surrogate parents are acting as the parent for educational decision making for a student, so the surrogate parent must be readily accessible to the student and the local education agency.

According to Ky Regulations for Exceptional Children, a surrogate parent can not be an employee of the Ky Dept. of Education, the local Education Agency, or any other public agency that is involved in the education or care of the child. The surrogate parent may not have an interest that conflicts with the interests of the child. A social worker may not act as a surrogate parent because they are an employee of a public agency responsible for the care of the child.

Surrogate Parent Criteria

A surrogate parent may be an employee of a private agency that provides non-profit educational care for the child if that person meets the other criteria.

Key Words and Phrases

As a surrogate parent you will realize that there are certain key words or phrases that are unique to the field of special education. Special educators sometimes talk in a special education “alphabet soup”. In this section we will try to familiarize you with these words and phrases. However, anytime that you attend a meeting or talk with a professional concerning services for the student in which you represent, please let the person know when you do not understand a term. The special educator should explain the term to you.

Key words and Phrases

- Admissions and Release Committee (ARC)
–means a group of individuals, that is responsible for developing, reviewing, or revising an Individual Education Program for a child with a disability.

Admissions and Release Committee (ARC) –means a group of individuals that is responsible for developing, reviewing, or revising an Individual Educational Program for a child with a disability.

The ARC membership includes the parent of the child, a regular education teacher, a special education teacher, and a representative of the the local education agency who is qualified to provide, or supervise the provision of specially designed instruction. This representative is called the ARC chairperson.

The ARC also includes an individual who can interpret the instructional implications of evaluation results. The special education teacher may fulfill this role. Related service providers such as the occupational therapy, physical therapy, speech/language pathology, as appropriate, may be a member of the ARC.

Anyone who has knowledge or special expertise regarding the child may be invited to be a member of the ARC at the discretion of the parent or the local education agency.

The student is always a member of the ARC when he or she turns 14, however if appropriate, the student may be part of his/her ARC at an earlier age.

For preschool children who are or have been in other early childhood programs, a representative of the early childhood program is a member of the ARC.

Key Words and Phrases

- **Assistive Technology Services** – means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device.

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An assistive technology device may be any item, piece of equipment, or product system, whether acquired commercially, off the shelf, modified, or customized device, that is used to increase, maintain, or improve the functional capabilities of a student with a disability.

According to IDEA 97 each ARC must decide whether or not the student with a disability needs assistive technology services.

Key Words and Phrases

- Special Education – means specially designed instruction, at no cost to the parents, to meet the unique needs of the child with a disability including instruction in the classroom, in the home, in hospitals and institutions, and in other settings.

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Key Words and Phrases

- Collaboration – means a teacher of exceptional children works with children with disabilities in the regular classroom to provide specially designed instruction and related services.

Collaboration – means a teacher of exceptional children works with children with disabilities in the regular classroom to provide specially designed instruction and related services.

Key Words and Phrases

- Free Appropriate Public Education (FAPE)
–special education and related services that are provided at public expense, under public supervision and direction, and without charge.

Free Appropriate Public Education sometimes called FAPE-means special education and related services that are provided at public expense, under public supervision and direction, and without charge.

FAPE special education and related services are provided in conformity with an Individual Education Program, and include preschool, elementary school, or secondary school education.

Key Words and Phrases

- Specially-Designed Instruction (SDI) – means adapting as appropriate the content, methodology, or delivery of instruction to address the unique needs of the child with a disability and to ensure access of the child to the general curriculum.

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Key Words and Phrases

- **Related Services** – means transportation and such developmental, corrective, or supportive services as are required to assist a child with a disability to benefit from special education.

Related Services – means transportation and such developmental, corrective, or supportive services as are required to assist a child with a disability to benefit from special education.

Related Services are those additional services that a student with a disability may need to benefit from specially designed instruction. Related services may include, but are not limited, to the following: transportation, medical evaluations, speech therapy, school health services, OT, PT, parent counseling and training, rehabilitation counseling, assistive technology and services, and recreational services.

Key Words and Phrases

- Least Restrictive Environment (LRE) – means the educational setting in which the student with a disability can learn effectively, based upon unique needs and capabilities, and interact with similar age peers who are not disabled.

Least Restrictive Environment (LRE) – means the educational setting in which the student with a disability can learn effectively. It is based upon unique needs and capabilities of the child, and provides interaction with similar age peers who are not disabled.

Key Words and Phrases

- Individual Education Program (IEP) – means a written plan of action developed by an Admission and Release Committee (ARC) to meet the specially designed instruction and related service needs of the student with a disability.

Notice

A written notice will be given to you as the surrogate parent:

1. When the child has been referred for special education services
2. Each time the ARC meets
3. Anytime the school plans to evaluate the student

You will be given a written notice each time the school district proposes or refuses an action. This means you will be given a written notice:

1. When the child has been referred for special education
2. Each time the ARC meets,
3. Anytime the school plans to evaluate the student, and
4. Anytime the school wants to initiate, continue or change the special education services for the student.

Notice

4. Anytime the school wants to initiate, continue or change the special education services for the student.
5. Will be in native language
- 6 notice will be sent early enough for you to attend
7. The ARC may be held without the parent

Notice must be written in a way that the general public can understand and must be in your native language. The school district must use the primary type of communication you use (for example, Braille for parents who may have vision disabilities). If you can not read the notice sent to most parents, the school district must try other ways. For example, school district staff may explain the notice to you by translating the notice into another language, or by using any way necessary to communicate with you.

Written notices will tell what the school district wants to do and the reasons why the school district wants to do it. Notices will include an explanation of parent's rights.

You will receive a written notice each time an Admissions and Release Committee is planned. The school district has to make sure you have a chance to attend all ARC meetings. This means the school district must tell you about the meeting early enough for you to attend. Also the school district must set the meeting at a time and place that is agreeable to you and the school staff. If you are not able to attend a meeting, you may take part by telephone, or by sending written information.

An ARC meeting may be held even if you cannot attend the meeting or take part in other way. But, the school district has to show it tried to make arrangements for you to attend.

The Identification Process

It is important as a surrogate parent to understand the process of how a student with a disability is identified and determined to be eligible for special education services.

Step 1 Referral

When parents, school personnel, or others notice that a child might need special help in school, they should give information in writing to the school system. This is known as a referral.

When the school receives a referral, the process starts. You will be notified in writing that a referral on your child was received and asked to attend an ARC meeting to discuss the referral.

The ARC, with you as a member, will determine if enough information is available to begin a full and individual evaluation. If the referral is complete, the ARC will complete an evaluation plan. This plan will tell you about the tests and other procedures school personnel plan to use to individually evaluate your child.

Your responsibilities are to make sure you understand what school personnel are suggesting and to carefully decide if you want your child individually evaluated.

The school district must have written permission before your child can be individually evaluated. Your written permission is required by federal and state regulations. As the child's surrogate parent you have the right to say yes or no and you may change your mind at any time. However, the school district has the right to ask for a due process hearing to show why your child should be individually evaluated.

The total amount of time from the date permission to evaluate until eligibility is determined and services are started, shall not exceed sixty school days. This excludes the number of days the district is waiting for a parental decision.

Step 2 Evaluation

Once you have given written permission for your child to be individually evaluated, a team of people will evaluate your child's abilities and needs. They will follow the evaluation plan developed by the ARC. The evaluation plan may consist of individually administered tests, review of your child's school work or school records, behavioral observations, interviews, and rating scales.

Evaluation

- The student will be individually evaluated at no cost to parents.
- The evaluation must be done by a team.
- One person on the team must have knowledge in the area of disability that is suspected.

The federal law outlines these requirements for evaluating students:

Students will be evaluated individually at no cost to parents.

The evaluation must be done by a team or group of people who are trained to give the tests and procedures and interpret the results. This is called a “multidisciplinary” team evaluation

One person on the team must have knowledge in the area of disability that is suspected.

Evaluation

- Eligibility can not be determined based on a single test or procedure.
- All tests must be given in the language that a student uses to communicate.

Several different tests and procedures must be used in the evaluation. Eligibility for specially designed instruction and related services can not be determined based on a single test or procedure.

All tests must be given in the language that a student uses to communicate. This is called “non-discriminatory testing”

When the evaluation is complete, you will receive another notice of an Admission and Release Committee meeting to discuss the results of the evaluation. As a member of the ARC you, and other members of the ARC, may have access to the evaluation information to be used for making educational decisions. As the parent, you will receive a copy of this evaluation.

Step 3 Eligibility

When determining eligibility for specially designed instruction and related services, the ARC must include someone knowledgeable about the evaluation procedures and results. The ARC with you, the parent, as a member will use the individual evaluation results to determine if your child has a disability. The ARC will review the evaluation results and determine if the disability has a negative impact on the educational performance of your child.

If the ARC, using the results of the evaluations, decided your child is eligible for and needs specially designed instruction and related services, you will receive a written explanation of the decision. The ARC will develop a written Individual Education Plan (IEP) for your child.

At the ARC meeting you have the right and responsibility to have the results of the evaluation explained to you. You may ask questions about the results.

If you cannot attend this meeting, you can talk to school personnel over the phone or ask for another meeting time. The school district will do its best to have you take part in all decisions about your child.

Independent Evaluation

- Parents may obtain an independent evaluation.
- Parent may request that the school arrange an independent evaluation.
- The school district may request a due process hearing to determine if an independent evaluation is needed.

If, after hearing the results of the individual evaluation, you don't think the right conclusions were met, you may obtain an independent evaluation of your child. The independent evaluation must be done in a way that follows the same rules that the school district follows when it does other evaluations. If you ask, the school personnel will help arrange for an independent evaluation.

If the school district believes their evaluation is appropriate and you disagree, the school district requests a due process hearing to show why its evaluation is right.. In other words, why a second opinion is not needed.

If the due process hearing officer decides that the school's evaluation is appropriate the district is not responsible for paying for your child's independent evaluation.

If the due process hearing officer decides that the school's evaluation is not appropriate, the school district is responsible for paying for your child's evaluation.

If an independent evaluation is at public expense, it must be considered in any decisions made about your child's education.

If an independent evaluation is at your expense, you may present the independent evaluation to the school district. If you do present the independent evaluation to the school district, it must be considered in any decisions made about your child's education.

Step 4 Program Planning

After the ARC has decided that your child has an educational disability and needs specially designed instruction and related services, the ARC will develop a written Individual Education Program for your child. Remember, you are always a member of the ARC.

The IEP

- The IEP is developed after a child is determined to need specially designed instruction.
- The ARC develops and reviews the IEP
- The IEP is a written plan of action describing services needed to meet the individual needs of your child.

The IEP will usually be developed at the meeting that determined your child needed specially designed instruction. The school district will have the IEP written and services started before the end of 60 school days from the date permission to evaluate was granted.

An Individual Education Plan is written especially for your child. You are always given a chance to work with the school in planning and reviewing the IEP. The Admission and Release Committee develops and reviews the IEP annually. You are an important member of this committee. The federal law requires that each child's IEP be developed by a group of people, not just one person.

The IEP is a written plan of action describing services needed to meet the individual needs of your child. You and your child, when appropriate, have a right to participate with the school personnel in the development of this plan.

The IEP is individualized for your child. It tells about your child's needs and includes the services that will be provided to meet those needs. This does not necessarily mean that your child will receive one-to-one instruction, but it does mean that the instruction will focus on your child's unique needs.

Parts of an IEP

- Present Level of Performance
- Annual Goals
- Short Term Objectives or Benchmarks
- Specially Designed Instruction
- Related Services
- Amount of time, if any, away from nondisabled peers

Federal and State regulations say the IEP for your child should include information about the following:

Present Level of Performance – Which tells what your child can and cannot do in the areas of academics, communication, intelligence, social skills, physical and vocational functioning.

Annual goals and short term objectives or benchmarks – Which state what your child is going to be working on during the school year.

Specially Designed Instruction and Related Services – Which outlines what the school is going to do to make sure your child receives what he or she needs to meet the goals and objectives set for your child.

The ARC begins with the assumption that the child will be in regular education full time and then decides which activities or classes need to be in a special education setting.

The IEP will include a date that services will begin, and state how the school will find out if your child is or is not making progress on the goals and objectives.

IEP

- The IEP will be reviewed at least annually.
- Parents will receive a copy of the IEP

The annual goals and short term objectives or benchmarks will be designed so that they can be accomplished by your child within a twelve month period. The school district will set up an ARC meeting at least annually to review progress on the current IEP and to develop a new one.

Any member of the Admission and Release Committee who wants to review the IEP before the annual review date can request that a meeting be scheduled for this purpose. Remember that as the parent, you are a member of your child's Admission and Release Committee and can request a meeting.

Federal and State regulations do not require the parent's signature on the IEP, the law does encourage parental input into developing the IEP. As a parent you will receive a copy of the plan. School districts will ask the parents to sign the conference summary report to indicate the parent's attendance at the meeting. The parent's signature is not an indication that the parent agrees with the IEP; it is documenting attendance at this meeting.

Transition

Transition is the process of changing from one program to another, one grade to another, and one organizational level to another, such as middle school to high school.

The school district develops a transitional plan for each student with a disability to make sure the move will be smooth as possible.

Transition

- Transition planning for post-secondary options will be developed by age 14
- At age 18 the student becomes responsible for making his/her educational decision.

A transition plan for post-secondary options must be developed for a student with disabilities no later than the age when the student without disabilities enters high school which is usually age 14. The Admissions and Release Committee, with the parents, and the student as members, will develop the transition plan based on results of a current evaluation. If the student does not attend this meeting, the school district will take other steps such as interviewing the student prior to the ARC to ensure that the preferences and interests of the student are considered.

At age 18 the student becomes responsible for making his/her educational decisions.

Transition services will depend on the student's abilities, needs, interest, and preferences identified in the transition plan. This means transition services will be individualized for each student needing services.

Placement

After the IEP is written, the Admissions and Release Committee with the parent as a member will decide where the specially designed instruction and related services will be provided. This is called placement.

Placement

- Instruction for the student will be in the Least Restrictive Environment.
- The first option for placement will be regular education classes in a regular school.
- The school district must have the parent's written permission for initial placement.

Your child has the right to receive instruction and to take part in school activities in the Least Restrictive Environment. This means that, as much as possible, your child has the right to be with children who do not have educational disabilities. LRE will be considered for academic activities like math and reading, as well as non-academic areas like meals, recess, field trips, athletic activities, and transportation to and from school.

The ARC, with you as the parent as a member, will consider what is the least restrictive environment for your child based on your child's IEP. Remember, the least restrictive environment is not the same for every child.

The ARC will consider a number of classes and schools or facilities where your child receive specially designed instruction and related services, but the first option is always regular education classes in a regular school.

The first time your child is identified as being eligible for special education services, the school district will have to have your written permission in order to begin the planned services. The parent's written permission for initial placement is required by federal and state regulations.

Resolving Disagreements

- Formal Complaint
- Request a due process hearing
- Appeal to KDE for a review of the hearing offices decision.
- Prepare a civil suit

A process which is available for investigation of a possible violation of federal or state law is the formal complaint. To make a formal complaint, a written and signed statement must be sent to the Kentucky Department of Education, Division of Exceptional Children Services. The statement must include a description of the possible violation and the facts supporting the complaint.

If the previous steps are not successful in resolving the disagreement, the parent may write to the Kentucky Department of Education, Division of Exceptional Children Services and request a due process hearing. The parent can request a due process hearing without going through the previous options. The hearing must be conducted and the hearing officer's decision mailed to both parties no later than 45 days after the Kentucky Department Education receives the request unless the hearing officer grants an extension.

If you are not satisfied after receiving the hearing officer's decision, you may appeal to the Kentucky Department Education, Exceptional Children Appeals Board, for review of the hearing officer's decision. The request for appeal must be submitted in writing, by certified mail, to the Kentucky Department of Education Division of Exceptional Children Services within 30 calendar days of receipt of the decision.

Should you not be satisfied after the appeal process, you may prepare a civil suit. With legal advice, you may pursue action through the court system.

Resolving Disagreements

There may be a time when the surrogate parent and school district staff do not agree even though you try to come up with a solution together. If this happens, you may want to follow these steps.

Resolving Disagreements Steps

1. Talk with the student's teacher, principal, and director of special education.
2. Request an ARC meeting.
3. Meet with the superintendent of schools
4. Request a mediator

Talk with the student's teacher, principal, and director of special education about your concerns.

Request an ARC meeting. Be prepared to state your concerns in detail.

If the problem still is not solved, you may request a meeting with the superintendent of schools to discuss the concerns.

If the problem is not resolved, request a mediator be assigned by the Kentucky Department of Education. In order for a mediator to be assigned, both parties must sign the request.

All of these steps are recommended, however they are optional if you are not satisfied.

Summary

- You have the right to attend all ARC meetings about your student.
- You may request an ARC meeting about your child more frequently than once a year.
- The school district must have your written permission before your student can be individually evaluated.

In summary:

You have the right to attend all ARC meetings about your student.

You may request an ARC meeting about your child more frequently than once a year.

The school district must have your written permission before your student can be individually evaluated.

Summary

- The school district must have your written permission before your student can begin a placement to receive specially designed instruction and related services.
- Parent's signature is not required on the IEP. However parent input is needed.

The school district must have your written permission before your student can begin a placement to receive specially designed instruction and related services.

Parent's signature is not required on the IEP, however parent input is needed.

Acknowledgements

“Your Child’s Education”
a document prepared by KDE

