

The Different Roles of Foster Parents and Surrogate Parents

Foster parents and surrogate parents both play crucial roles in supporting the educational needs of children with known or suspected disabilities who have or may need special education and related services. While foster parents often function as parents for needs such as shelter, food, clothing, homework help, getting to school on time every day, and love, they do not automatically have the right to make educational decisions for a child in their care who has or may have special education needs. A surrogate parent, on the other hand, is appointed specifically to represent a child in the special education process, advocate for the child's educational rights, and make educational decisions for them.

Regulations in the Individuals with Disabilities Education Act (IDEA) and Minnesota law related to the needs of children in foster care

Under IDEA, the involvement of a parent in every step of the special education process, including for children who are placed in foster care, is required.

- Parents participate in decisions about identification, evaluation, educational placement, and provision of a Free, Appropriate Public Education (FAPE).
- Parents consent or object to school district proposals and refusals of action.
- Parents can use dispute resolution options to resolve disagreements with the school district.

If a biological parent is unknown, unavailable, or not legally authorized to make educational decisions on behalf of a child, another adult must step into that role.

IDEA also defines the different adults who may fulfill the role of parent in the special education process.¹ This adult may be:

- A biological or adoptive parent
- A foster parent, if certain conditions are met
- A guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child
- An individual with whom the child lives, and who acts in place of a biological or adoptive parent, such as a grandparent or stepparent
- A surrogate parent

Certain conditions require a school district to assign a surrogate parent to a child, while other conditions allow for a foster parent to fulfill the role of parent in the special education process.

The school district must assign a surrogate parent to a child with a known or suspected disability when:²

- No parent can be identified
- The school district cannot locate a parent after making reasonable and documented efforts to do so
- The child is a ward of the State

¹ Individuals with Disabilities Education Act (IDEA) [§300.30](#)

² IDEA [§300.519](#); Minnesota Administrative Rule [3525.2440](#)

- The child is an unaccompanied homeless youth
- When a child's parent requests in writing that the school district appoint a surrogate parent

While a foster parent does not automatically have the right to make educational decisions for a child with a known or suspected disability in their care, a foster parent can step into the role of parent in the special education process for the child if:³

- The biological or adoptive parents have lost their legal authority to make educational decisions for the child
- The foster parent does not have contractual obligations with a State or local entity that would prohibit them from acting as a parent
- The foster parent is willing and able to act as the child's parent in the special education process

Meaningful ways that foster parents can support the educational needs of a child in their care with a known or suspected disability

Even if the criteria for a foster parent to serve in the role of parent in the special education process are not met, there are still many other ways a foster parent can meaningfully support the educational needs of a child with a known or suspected disability in their care. They can:

- Communicate regularly with the child's social worker and/or biological parent (if appropriate and safe) about the child's needs and progress in school. The foster parents can build open lines of communication and trust so that the needs of the child can be met.
- Ask the child's social worker to sign or obtain the appropriate signatures for a release of information to be given to the school, so that they can be included in conversations about the child's educational needs. Note that a release of information can give the foster parent access to information, but does not give them rights to make decisions about the child's education.
- Attend school events and meetings whenever possible. The engagement of the foster parent at school events hosted by a child's teachers and coaches, such as parent-teacher conferences, Individualized Education Program (IEP) team meetings, sports events, and holiday concerts, can have a positive and powerful impact on the child's educational experiences and services.
- Keep records. The IEP team's picture of a child in foster care is often incomplete or inaccurate because the child's records may get lost in their transition from one placement to the next. Foster parents can serve an important role in keeping good records for the child: not just school records, but any records that may give an IEP team insight into who the child is, their interests and motivations, strengths, and dreams.
- If the child in foster care is under the age of 3, is eligible to receive Early Childhood Special Education services in the foster home, and has an Individualized Family Service Plan (IFSP), a biological parent with parental rights intact has the right to be present for the services detailed in the IFSP. However, the foster parent is not required to disclose their residential information to the biological parent or other biological family members. The foster parent has the option to transport the child to an alternate location such as their school or a public library to receive their IFSP services.

³ IDEA [§300.30](#)

Resources

[Steps to Become a Foster Parent in Minnesota](#)

This webpage from the Minnesota Department of Human Services provides an overview of the steps a person follows to become a licensed foster care provider. Foster parents play a critical role in the special education of children with disabilities in their care.

[MN ADOPT Fostering Network](#)

There is a shortage of foster homes to care for children in Minnesota. MN ADOPT's Fostering Network answers questions about becoming a foster parent and offers online resources, including their 13 part [Foster Care 101](#) Podcast.

[Children's Law Center of Minnesota](#)

The mission of the Children's Law Center of Minnesota is to promote the rights and interests of Minnesota's children in the judicial, child welfare, health care, and education systems. They offer a wide range of helpful online resources for foster youth, foster caregivers, and volunteers who support foster families.