

Surrogate Parents in California Special Education: An Overview



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The guidance in *Surrogate Parents in California Special Education: An Overview* is not binding on local educational agencies or other entities. Except for the statutes, regulations, and court decisions that are referenced herein, the document is exemplary, and compliance with it is not mandatory. (See *Education Code* Section 33308.5.)

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Introduction

The federal Individuals with Disabilities Education Act (IDEA) requires assurances from states receiving federal funds for the provision of special education that surrogate parents will be appointed for students with disabilities who are without parental representation in special education procedures.

In compliance with this federal mandate, California *Government Code* Section 7579.5(m) requires the California Department of Education to “develop a model surrogate parent training module and manual that shall be made available to local educational agencies.”

Surrogate Parents in California Special Education: An Overview is intended for use as a reference to assist local educational agencies (LEAs) in developing and implementing procedures for parental representation that comply with federal law. Many LEAs already have their own policies and procedures related to the appointment of surrogate parents and educators. Readers are encouraged to review those materials for more specific information pertinent to their region.

An accompanying model surrogate parent training module is published on the California Department of Education’s website at <https://www.cde.ca.gov/sp/se/ac/>.

This manual was developed by the California Department of Education.

Chapter 1

A Legislative Overview

In 1975 the United States Congress enacted the Education of All Handicapped Children Act (EAHCA) (Title 20, *United States Code*, Section 1400, et seq.) to support states and localities in protecting the rights of, meeting the individual needs of, and improving educational results for infants, toddlers, children, and youths with disabilities and their families. Among the protections this law introduced was the assurance that a surrogate parent would be provided when necessary for a student who receives special education (Public Law 94-142, Section 5[a]). An individual was to be appointed as a surrogate parent when no parent could be identified or located, or when the student was a ward of the state. The role of the surrogate parent was to represent the student in all matters relating to the identification, evaluation, educational placement, and provision of a free appropriate public education, or FAPE.

In 1990 California provided more specific direction for the appointment of a surrogate parent by enacting Assembly Bill 1528, which prohibited the appointment of individuals who would have a conflict of interest in representing the child. Assembly Bill 1528 was codified as California *Government Code* Section 7579.5.

At the federal level, the EAHCA was renamed the Individuals with Disabilities Education Act (IDEA) in 1990, and substantive amendments were made to it in 1997. The IDEA established the rights of students, from birth through twenty-one years of age, to a free appropriate public education. In 2004 the IDEA was reauthorized and signed into law, revising certain requirements related to the assignment of surrogate parents (Title 20, *United States Code*, Section 1415[b][2][A] and [B]).

This manual was developed to assist LEAs, placing agencies, and other service providers in the implementation of state and federal requirements pertaining to the appointment of surrogate parents. Explanations of state and federal mandates about parental involvement, educational entitlements, and procedural safeguards for individualized education programs (IEPs) are contained in this manual as required by California *Government Code* Section 7579.5(m).

This manual covers the major considerations under state and federal law that should be applied by LEAs when appointing surrogate parents. These considerations are listed below:

- Identification of children in need of a surrogate parent
- Appointment process
- Rights, responsibilities, and requirements of surrogate parents
- Recruitment of surrogate parents
- Training of surrogate parents
- Roles and responsibilities of agencies in implementing this program

The goal of this manual is to develop a common body of information for local policymakers, administrators from both educational and social service agencies, and coordinators of local training programs who will implement or participate in the appointment and training of surrogate parents. This manual also provides references to statutes and regulations, sample forms, and documents containing other agency guidelines.

Current State and Federal Law

This section provides an overview of state and federal legal mandates and describes surrogate parents and other persons who have legal authority to act on a child's behalf in the special education process.

Federal law requires the state and LEAs to establish and maintain procedures for assigning a surrogate parent to a student whenever the location of the biological parents or guardian of the child is not known or available or the child is a ward of the state. The surrogate parent must not be an employee of any public agency involved in the education or care of the child (Title 20, *United States Code*, Section 1415[b][2][A] and Title 34, *Code of Federal Regulations*, Section 300.519[d][2][i]).

Federal implementing regulations provide a legal definition of a "surrogate parent" and stipulate the requirements that must be met when a public agency selects and assigns a surrogate parent for a child with no identifiable parent or to a child who is a ward of the state. State law provides that "surrogate parent" shall be defined as it is defined in the IDEA regulations cited above (Title 34, *Code of Federal Regulations*, Section 300.519[d]). A surrogate parent may represent a student who receives special education in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in other matters relating to the provision of a free appropriate public education to the student (California *Education Code* Section 56050 and Title 34, *Code of Federal Regulations*, Section 300.519[g]).

Who Can Be a Surrogate Parent?

A surrogate parent must be a person appointed by the LEA 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 (California *Education Code* Section 56050; California *Government Code* Section 7579.5[c]; Title 34, *Code of Federal Regulations*, Section 300.519[d][2]). In general, state and federal law mandate that each person appointed as a surrogate parent must meet the following requirements:

1. The surrogate shall not be an employee of a public or private agency involved in the education or care of the child.
2. The surrogate shall have no interest that conflicts with the interests of the child he or she represents.
3. The surrogate shall have knowledge and skills that ensure adequate representation of the child.

There are some exceptions to these requirements. For instance, for a student who is a ward of the court, the surrogate parent needs to meet only the first requirement of the law if the surrogate is appointed by the court. (For information about other court-appointed advocates, see appendix D.) In addition, for a homeless student, the surrogate parent may be an employee of an agency, if needed.

An LEA shall select, as a first preference, a surrogate who is a relative caregiver, foster parent, or court-appointed special advocate. If none of these individuals are willing or able to serve, another person may be appointed to be the surrogate (*California Government Code* Section 7579.5[b]).

The basic premise is that a surrogate parent will have the appropriate knowledge and skills required to adequately represent a student who receives special education and related services and who does not have parental representation in educational matters.

When Must a Surrogate Parent Be Appointed?

California Government Code Section 7579.5 specifies the following requirements for when a surrogate parent must be appointed:

A local educational agency shall appoint a surrogate parent for a child in accordance with Section 300.519 of Title 34 of the Code of Federal Regulations under one or more of the following circumstances:

(1)(A) The child is adjudicated a dependent or ward of the court pursuant to Section 300, 601, or 602 of the Welfare and Institutions Code upon referral of the child to the local educational agency for special education and related services, or if the child already has a valid individualized education program, (B) the court specifically has limited the right of the parent or guardian to make educational decisions for the child, and (C) the child has no responsible adult to represent him or her pursuant to Section 361 or 726 of the Welfare and Institutions Code or Section 56055 of the Education Code.

(2) No parent for the child can be identified.

(3) The local educational agency, after reasonable efforts, cannot discover the location of a parent.

Additionally, an LEA must appoint a surrogate parent for unaccompanied homeless youths (*Government Code* Section 7579.5).

The surrogate parent for a child who is a ward of the state may be appointed by a judge overseeing the child's care, provided that the surrogate meets the requirements of *Government Code* Section 7579.5. If a judge appoints the surrogate parent, then the LEA is not required to do so (*Government Code* Section 7579.6).

It is important to know which persons fall within the definition of “parent” because the LEA may not appoint a surrogate parent for a child who has a parent. For this purpose, the federal regulations implementing IDEA define “parent” as a biological or adoptive parent of a child; foster parents, to the extent allowed by state law; guardians; caregiver relatives; or other persons legally responsible for the child’s welfare (Title 34, *Code of Federal Regulations*, Section 300.30[a]). A properly appointed surrogate parent is also considered a parent under federal law.

California’s *Education Code* Section 56028 provides the following definitions of a parent:

(a) “Parent” means any of the following:

(1) A biological or adoptive parent of a child.

(2) A foster parent if the authority of the biological or adoptive parents to make educational decisions on the child’s behalf specifically has been limited by court order in accordance with Section 300.30(b)(1) or (2) of Title 34 of the Code of Federal Regulations.

(3) A guardian generally authorized to act as the child’s parent, or authorized to make educational decisions for the child, including a responsible adult appointed for the child in accordance with Sections 361 and 726 of the Welfare and Institutions Code.

(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.

(5) A surrogate parent who has been appointed pursuant to Section 7579.5 or 7579.6 of the Government Code, and in accordance with Section 300.519 of Title 34 of the Code of Federal Regulations and Section 1439(a)(5) of Title 20 of the United States Code.

(b)(1) Except as provided in paragraph (2), the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under subdivision (a) to act as a parent, shall 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 (1) to (4), inclusive, of subdivision (a) to act as the “parent” of a child or to make educational decisions on behalf of a child, then that person or persons shall be determined to be the “parent” for purposes of this part, Article 1 (commencing with Section 48200) of Chapter 2 of Part 27 of Division 4 of Title 2, and Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, and Sections 361 and 726 of the Welfare and Institutions Code.

(c) “Parent” does not include the state or any political subdivision of government.

(d) “Parent” does not include a nonpublic, nonsectarian school or agency under contract with a local educational agency for the provision of special education or designated instruction and services for a child.

School administrators are encouraged to familiarize themselves with the definitions of “parent” set forth in California *Education Code* Section 56028 and Title 34, *Code of Federal Regulations*, Section 300.30. It is also advised that school administrators determine the most efficient way to find out whether parents of children who are wards of the court have retained their educational rights.

An LEA’s authority to appoint a surrogate may be exercised only when the parent(s) cannot be located or parental rights have been terminated. If the location of the parent(s) is known but the parent(s) fails or refuses to participate in the IEP meeting, the LEA may need to file for a due process hearing to obtain approval for the district’s offer of a free appropriate public education. In this case, the LEA does not need, or have authority, to appoint a surrogate parent.

In its publication of the 2006 regulations—*Federal Register*; Volume 71; Number 156; Monday, August 14, 2006, page 46689—the federal Department of Education provided further clarification on this issue when responding to comments about IDEA:

Comment: A few commenters recommended that placement meetings not be held, or decisions made, without a representative of the child. The commenters recommended appointing a surrogate parent when the biological or adoptive parent refuses to attend, or is unable to participate, in the placement meeting.

Discussion: There is no statutory authority to permit the appointment of a surrogate parent when a parent is either unable or unwilling to attend a meeting in which a decision is made relating to a child’s educational placement. In section 615(b)(2) of the Act, a public agency does not have the authority to appoint a surrogate parent where a child’s parent is available or can be identified and located after reasonable efforts, but refuses, or is unable, to attend a meeting or otherwise represent the child.

Educators are advised to consult with their legal counsel, as needed, to identify who has been assigned legal authority to make educational decisions for the child.

Conservatorship

Students who reach the age of majority—age eighteen—are presumed competent to make their own decisions. In some situations, a student over the age of eighteen, who is legally an adult, may have a conservator who will act on the student’s behalf for decisions about special education and related services. The term “conservator” refers to a person

given legal authority and responsibility by the superior court to make decisions for an adult person, married minor, or married minor whose marriage has been dissolved who is not competent to make such decisions or to give informed consent. Duly appointed conservators can be identified by a document called “Letters of Conservatorship” issued by the court, pursuant to California *Probate Code*, Section 1800, et seq. The “Letters of Conservatorship” define the scope of the conservator’s power over the person and property of the incompetent adult.

The LEA must examine the conservatorship documents to determine whether the conservator meets the legal requirements of a “parent” under state and federal law. Each situation involving a conservator must be analyzed individually to determine whether the LEA must appoint a surrogate parent.

For further information regarding the appointment and responsibilities of conservators, please visit <http://www.courts.ca.gov/documents/gc350.pdf>.

Adult Students in Special Education

When a student reaches the age of eighteen, adult rights accorded under California law include the authority to make decisions regarding his or her own education, unless the adult student chooses not to make decisions or a court deems the student incompetent (*Education Code* Section 56041.5).

An LEA has no authority to appoint a surrogate parent for an adult student even if the IEP team considers the student incapable of participating in the educational process as a result of the student’s disabilities. A court may appoint a conservator for this purpose, or an adult student may give permission for another person to act on his or her behalf. In addition, a surrogate parent appointed to represent a student before the student turns age eighteen may continue to represent the student after he or she turns eighteen if the student chooses not to make educational decisions for himself or herself (*Government Code* Section 7579.5[k]). (See section titled “Special Situations” in Chapter 5 for an example related to adult students).



Chapter 2

Responsibilities and Rights of Surrogate Parents

The surrogate parent's role is to represent the rights of a student with special education needs in all educational matters related to the provision of a free appropriate public education (California *Education Code* Section 56050). This role gives surrogate parents certain rights within the educational process that are the same for any "parent," with identical guarantees for participation in decision-making and procedural safeguards.

Responsibilities of the Surrogate Parent

Under current law, a surrogate parent shall serve as a child's parent and has all the same rights as a child's parent pertinent to special education and related services (California *Government Code* Section 7579.5[c]). A surrogate parent may represent an individual with exceptional needs in matters related to identification, assessment, instructional planning and development, educational placement, reviewing and revising the IEP, and in other matters related to the provision of a free appropriate public education to the individual (California *Education Code* Section 56050[b]).

Notwithstanding any other provision of law, this representation shall include the provision of written consent to the IEP, including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Chapter 26.5 (commencing with Section 7570) of the *Government Code* (California *Government Code* Section 7579.5[c]). The surrogate parent may sign any consent related to IEP purposes (California *Education Code* Section 56050[b]).

Because a surrogate parent may represent a child in all matters related to the special educational process (Title 34, *Code of Federal Regulations*, Section 300.519[g]), the surrogate parent should learn as much as possible about the child with disabilities to appropriately represent the rights of the child throughout the special education process. Federal regulation requires that LEAs ensure that a person selected as a surrogate parent has knowledge and skills that ensure adequate representation of the child (Title 34, *Code of Federal Regulations*, Section 300.519[d][2][iii]). Additionally, state law requires that the

surrogate parent meet with the child at least one time (California *Government Code* Section 7579.5[d]). Although not explicitly required by law, CDE recommends that LEAs provide training to each prospective surrogate parent before he or she is appointed for a specific child.

Rights of Surrogate Parents

The surrogate parent's rights necessarily include access to educational records relevant to any decisions made regarding the educational program of the child. That is, the surrogate parent has the right to examine any records collected, maintained, or used by an agency to make decisions affecting the child's educational program within five business days of the information request, just like other parents (California *Education Code* Section 56504).

Surrogate parents and the LEAs that appoint them are held harmless by the state of California when acting in their official capacity except in acts or omissions found to have been wanton, reckless, or malicious (California *Government Code* Section 7579.5[l]).

When a student is being considered for suspension or expulsion, or there is a dispute over the identification, assessment, or placement of the student, the surrogate parent is entitled to participate as the "parent" in all phases of the proceedings (California *Education Code* sections 48900, et seq. and 56505, et seq.). Surrogate training should include information regarding parents' procedural rights during suspension or expulsion proceedings and due process hearing procedures.

If a surrogate parent requires legal assistance in the representation of the child, the LEA must provide information about low-cost legal resources, just as it would provide this information for other parents (California *Education Code* Section 56502[h]).

More information about parents'—and therefore surrogate parents'—procedural rights is available in the California Department of Education's Notice of Procedural Safeguards at <https://www.cde.ca.gov/sp/se/qa/pseng.asp>.

Chapter 3

When to Appoint Surrogate Parents

This chapter presents procedural considerations for the LEA in appointing a surrogate parent. As described earlier, each public agency must ensure that the rights of a child are protected by determining the need for and by assigning a surrogate parent whenever the child is referred to or is eligible for special education and one or more of the following circumstances apply:

- No parent can be identified
- The public agency, after reasonable efforts, cannot locate a parent
- The child is a ward of the state
- The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (“McKinney-Vento Act”) (Title 42, *United States Code*, Section 11434a[6])

Wards and Dependents of the Court

Under California law, there are both “dependent” children as well as children who are described as “wards” of the courts (*California Welfare and Institutions Code* sections 300, 601, and 602). A minor may be declared a ward of the court for habitual refusal to obey parents or guardians or for truancy from school (*California Welfare and Institutions Code* Section 601). A minor may also be declared a ward for commission of a crime (*California Welfare and Institutions Code* Section 602). A “dependent” child may be one who is at risk of abuse or neglect by his or her parents (*California Welfare and Institutions Code* Section 300).

When a court decides that a minor is a ward or dependent, the court may limit the parent’s educational rights (*California Welfare and Institutions Code* sections 361[a] and 726). If the court limits parental rights, it must issue an order clearly assigning those educational rights to another responsible adult. If a responsible adult or educational

representative has been appointed by the court, the LEA does not need to appoint an educational surrogate. After limiting the parent's educational rights, the court must use form JV-535 (see appendix B) to document one of the following items:

- The appointment of an educational representative
- The determination that the caregiver may make educational decisions
- A referral to the LEA
- Educational decisions made by the court with contributing comments from interested persons (California *Rules of Court*, Rule 5.650[d])

If the court cannot identify an educational representative or responsible adult and the child is or may be eligible for special education and related services, the court must refer the matter to the LEA for the prompt appointment of a surrogate parent for the child (California *Rules of Court*, Rule 5.650[d][1]). A surrogate parent may also be appointed by the judge overseeing the child's case (Title 34, *Code of Federal Regulations*, Section 300.519[c]).

If the court refers a child to the LEA for appointment of a surrogate parent, the relevant papers must be served on the LEA within five court days of the court's order (California *Rules of Court*, Rule 5.650[d][2]). The LEA must make reasonable efforts to assign a surrogate parent within 30 calendar days after the court's referral (California *Rules of Court*, Rule 5.650[d][3]). The LEA must provide notification to the court, the child's attorney, and the child's social worker or probation officer—as stated on Form JV 535—within five court days of the appointment of a surrogate parent (California *Rules of Court*, Rule 5.650[d][3]).

If the LEA does not appoint a surrogate parent within 30 days of the request from the court, it must, within the next five court days, notify the court on form JV-536 of its inability to appoint a surrogate parent and its continuing reasonable efforts to assign a surrogate parent. The court forms relevant to surrogate parents are included in appendix B.

Unaccompanied Homeless Youths

LEAs are responsible for appointing a surrogate parent for unaccompanied "homeless children and youths" as defined in the McKinney-Vento Act (Title 42, *United States Code*, Section 11434a; see also California *Government Code* Section 7579.6 and Title 34, *Code of Federal Regulations*, Section 300.519[a][4]). The term "unaccompanied youth" is defined as a homeless child or youth who is not in the physical custody of a parent or guardian (Title 42, *United States Code*, Section 11434a[6]).

The term “homeless children and youths” means persons who lack a fixed, regular, and adequate nighttime residence, as defined in Title 42, *United States Code*, Section 11434a(2):

- Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals
- Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings
- Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings
- Migratory children who are living in the circumstances described above

In the case of an unaccompanied homeless youth, a temporary surrogate parent may be appointed until a surrogate parent can be appointed who meets all the requirements (Title 34, *Code of Federal Regulations*, Section 300.519[f]). Such temporary surrogate parents may include appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs (Title 34, *Code of Federal Regulations*, Section 300.519[f]). However, temporary surrogate parents must still be free of any personal or professional conflict of interest with the child’s interest and must possess knowledge and skills that ensure adequate representation of the child (Title 34, *Code of Federal Regulations*, sections 300.519[d] and [f]).



Chapter 4

The Appointment Process

This chapter presents considerations for the procedures LEAs may wish to follow in appointing surrogate parents. Many LEAs also have their own written policies and procedures on appointing surrogate parents, and educators are encouraged to review these documents in addition to this manual for local requirements.

Recruitment efforts and timelines for surrogate parent appointments will be different for students already eligible for special education and related services and for those students suspected of having a disability. The suggestions presented in this chapter for a step-by-step approach to the appointment process are offered for guidance only. Except for the reference statutes, regulations, and court decisions, the described practices are not mandatory. Related sample forms are included in appendix B and are optional.

Any student who has been referred for assessment because of a suspected disability, who is already eligible for special education, or who is enrolled in special education may need a surrogate parent. If the parent cannot be identified; documented “reasonable inquiries” do not locate the parent or guardian; a child is an unaccompanied homeless youth; or a child has been declared a ward or dependent of the court, a surrogate parent appointment would be in order.

Step 1: Contacting the Parents

The majority of students eligible for special education or suspected of being eligible for special education will have an easily identifiable and locatable parent, as defined under law. However, in situations in which the parent is not known, efforts to locate the parent should begin immediately once a student has been referred for assessment. Time is of the essence for several reasons. First, a series of tasks with specific timelines begin on referral that pertain to identification, assessment, and placement decisions (*California Education Code* Section 56043). Since a parent must be involved in education-related decisions, the determination of the need for a surrogate parent should be made within 30 days of the referral.

If the student has not been adjudicated a ward or dependent, and if the LEA cannot determine that the student is in a home with an adult who is acting as a parent or who

could be appointed as the surrogate parent, the LEA is advised to consider making a report of neglect or abuse to the child welfare agency in the county (California *Penal Code* sections 11165.7 and 11165.9).

Before appointing a surrogate parent, an LEA must make reasonable efforts to locate the parent (Title 34, *Code of Federal Regulations*, Section 300.519[a][2] and California *Government Code* Section 7579.5[a][3]). Reasonable efforts to contact parents include, but are not limited to, the following measures:

- Documented telephone calls
- Letters
- Certified letters with return receipts
- Documented visits to the parents' last known address

If the reasonable efforts described above fail to locate the parent or to obtain parent status notification from the placing agency, a surrogate parent appointment may be necessary. Please note that the placing agency is the entity that makes a placement, and a placement is the arrangement for the care of a child in a foster home or a child-caring agency or institution, including placement with a relative, or into a pre-adoptive home (visit the California Department of Social Services' website at <http://www.cdss.ca.gov/inforesources/Foster-Care/Interstate-Compact-on-the-Placement-of-Children-ICPC/faqs>). A surrogate parent shall be appointed not more than 30 days after the LEA determines that a student needs a surrogate parent (California *Government Code* Section 7579.5[a]). The timely appointment of a surrogate parent, when necessary, will facilitate timely IEP review, establish consent for special education assessment, or both.

If a surrogate parent is appointed for a child who is a ward or dependent of the court, the LEA must notify the court within five court days of the appointment. If the child has been referred by a placing agency, it is helpful for the LEA to inform the placing agency of the appointment.

Step 2: Selecting a Surrogate Parent

When appointing a surrogate parent, the LEA shall give first preference to a relative caregiver, foster parent, or court-appointed special advocate. However, if none of those individuals are willing or able to act as a surrogate parent, the LEA must be prepared to appoint another qualified responsible adult to act in that capacity (California *Government Code* Section 7579.5[b]). The local surrogate parent appointment program is more likely to be successful if an ongoing process of recruitment, screening, and training is used to develop and maintain a pool of potential surrogate parents.

Finding Volunteers

Individuals who may serve as surrogate parents include, but are not limited to, foster care providers, retired teachers, social workers, and probation officers (California *Government Code* Section 7579.5 [j]). Appropriate community groups may be contacted for purposes of recruiting surrogate parents. It is recommended that such groups be given a clear explanation of the roles and responsibilities of surrogate parents as well as an overview of the time commitments involved in representing a student receiving special education and related services. Volunteers should be informed that they will be representing children who have special and sometimes unique needs. Volunteers must be willing to be trained to act as educational representatives for students requiring a surrogate parent.

Other resources to consider are local school–parent organizations, volunteer offices of LEAs, community advisory committees, retired teachers associations, service clubs (e.g., Rotary, Lions, Soroptimists, and Kiwanis), and the California Court Appointed Special Advocates Association. Some volunteer organizations have established screening processes for recruiting persons to work with children (e.g., Big Brothers, Big Sisters, Foster Grandparents, and so forth).

Recruitment is more likely to be successful when LEAs bring the needs of their surrogate parent program to the attention of their local interagency network groups. The combination of local resource and referral networks—which include public and nonpublic schools, other public non-educational agencies, private agencies, private practitioners, and other local community volunteer agencies—may assist LEAs in locating potential surrogate parents.

Reasonable efforts should be made to ensure that persons representing all sections of the community and all racial, ethnic, linguistic, and economic subgroups within the community are recruited and made available for appointment as surrogate parents to ensure that surrogate parents are culturally sensitive to their assigned child (California *Government Code* Section 7579.5[e]). It is helpful to include information about cultural awareness when training individuals to become surrogate parents.

Foster Parents

When a court has limited the right of the parent or guardian to make educational decisions and has not assigned another responsible adult to do so, foster parents and care providers who live with the child in small foster family homes have the usual rights of parents to participate in educational decisions. The foregoing is true unless a court expressly excluded the foster parents from such decisions in a written order (California *Education Code* Section 56055[b]).

For example, “The foster parent may represent the foster child for the duration of the foster parent-foster child relationship in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising an individualized education program, if necessary, and in all other matters relating to the provision of a free appropriate public education of the child. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the individualized education program, including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to this chapter. The foster parent may sign any consent relating to individualized education program purposes” (California *Education Code* Section 56055[a]).

State law allows these foster parents to be appointed as surrogate parents except when there is a conflict of interest (California *Government Code* Section 7579.5[i] and [j]). An additional factor to consider is that monies received by foster parents and small foster family home care providers are not regarded by the California Department of Social Services (DSS) as payment for contracted services but as reimbursements for expenses incurred on the child’s behalf. Foster parents may have a conflict of interest if changes in placement leading to residential placement are under consideration.

A conflict of interest could arise if the foster parent seeks to retain the child in the current placement, since changing the residential placement of a child would mean a loss of income to the foster parent. Therefore, local “blanket” policies concerning conflicts of interest may be problematic regarding foster parents acting as surrogate parents. When substantial issues likely to result in a change in residential placement are faced by the IEP team, it is suggested that the LEA review surrogate parent appointments to address possible conflict-of-interest concerns (Title 34, *Code of Federal Regulations*, Section 300.519[d][2][i] and [ii] and California *Government Code* Section 7579.5 [i] and [j]). Each case should be determined on its own merits.

Step 3: Reviewing the Surrogate Parent Application

The application procedures for surrogate parents usually try to collect, at the outset, the following information:

- Facts that show the applicant does not have any interests that will conflict with the student’s interests in the area of special education
- Assurance that the applicant has or is willing to acquire knowledge about the special educational interest of the student and the qualities and skills necessary to fulfill the role of surrogate parent
- Facts that show the applicant is not an employee of a public, non-public, or private agency involved in the care or education of the student

- Assurance that the applicant is willing to commit the time and energy necessary to effectively represent and advance the best interests of the student in educational matters

It is helpful to develop or adapt forms for a surrogate parent application that ensures appropriate surrogate parent appointments. Generally, implementing districts include the following items in a surrogate parent application packet: (1) an application; (2) a disclosure statement to screen potential conflicts of interest; (3) an acknowledgment that the potential appointee will complete the local training program for surrogates; and (4) an agreement between the appointing agency and the surrogate parent that includes an assurance of confidentiality for student records.

The application package may also include a personal-interest questionnaire, personal references for verification of personal information, releases of information for Department of Motor Vehicles screening, or even possible fingerprinting documentation, depending on the LEA's procedures. If an LEA already has an existing volunteer program, it may be expeditious to adapt the program for surrogate parent appointment purposes.

Step 4: Screening for Conflict of Interest

Federal and state law mandate that the surrogate parent not have a conflict of interest (Title 34, *Code of Federal Regulations*, Section 300.519[d][2][ii] and *California Government Code* Section 7579[i]). Some factors to consider are provided below:

- Whether the volunteer is employed by an LEA or any agency involved in the education or care of the student
- Whether the volunteer holds a position that might restrict or bias his or her ability to represent the student's educational needs
- Whether the volunteer holds a position that might subject the volunteer to administrative influence or reprimand for acting as the student's educational representative
- Whether the volunteer has interests that might restrict or bias his or her ability to advocate for all the services required to ensure a free appropriate public education for an individual with exceptional needs

Disclosures of financial interests are the primary measures that special education local plan areas (SELPAs) and LEAs may use to establish conflict-of-interest criteria. Currently adopted forms available at local or county personnel departments may be adapted as surrogate parent conflict-of-interest disclosure statements. It is advisable to complete the eligibility determination before the surrogate parent candidate is invited to a formal training.

The Surrogate Parent Agreement sample form (see appendix B) contains possible terms and conditions that may be agreed on between the surrogate parent and the LEA. These terms and conditions pertain to the following areas:

- Responsibilities of a surrogate parent to the student
- LEA's responsibility to provide training regarding disabilities
- Laws applicable to surrogate parents' responsibilities
- Continuum of program placements and opportunities
- Term of appointment
- Termination of the agreement
- Confidentiality of student information

Step 5: Training of Potential Surrogate Parents

Because it is the responsibility of the SELPA or LEA to appoint persons who have "knowledge and skills that ensure adequate representation of the child" (Title 34, *Code of Federal Regulations*, Section 300.519[d][2][iii]), these entities are encouraged to provide effective screening, training, and consultation on an as-needed basis for potential surrogate parents. (For a directory of SELPAs, see appendix C.) Training and ongoing consultation with potential surrogate parents may include familiarization with the following items:

- The educational needs of the student to be represented
- The local programs and related services available in the SELPA or LEA
- Procedural safeguards to ensure that the student's needs are met and IEP services are delivered
- Time commitments of surrogate parents

Additional Procedures

It is suggested that the following procedures be considered:

- Matching the student's needs to the most appropriate volunteer applying to be a potential surrogate parent
- Introducing the student and the potential surrogate parent

- Obtaining a written agreement with the surrogate parent to serve the specific student in the IEP process and to maintain the student's and the family's rights to confidentiality
- Informing all involved persons and agencies responsible for the residential care and education of the student of the surrogate parent's appointment

It is also suggested that appointments be reviewed annually to determine whether the status of the parent of the child still warrants the appointment.

Caseloads for surrogate parents vary nationally depending on the complexity or severity of the individual cases and the availability of surrogate parents. Other local considerations may be the driving distances between the special education programs of the represented students.

It is recommended that a surrogate parent's agreement to serve be documented in writing. Some examples of appointment and agreement forms are included in appendix B.

Whenever possible, an introductory meeting before finalizing the appointment may be arranged for the child and potential surrogate to become acquainted. Such preliminary introductions may allay any serious reservations held by the potential surrogate or the child. Once a surrogate parent is appointed, notices should be sent to all staff involved in the residential care and education of the student.

It is recommended that local policies be developed to ensure that the surrogate parent has appropriate access to the student, the student's records, and the meetings necessary for the development and review of the IEP.

Chapter 5

Appointment Duration, Termination, and Resignation of a Surrogate Parent

The surrogate parent may represent the child until any of the following circumstances are determined:

- The child is no longer in need of special education
- The minor reaches 18 years of age, unless the child chooses not to make educational decisions for himself or herself, or is deemed by a court to be incompetent
- Another responsible adult is appointed to make educational decisions for the minor
- The right of the parent or guardian to make educational decisions for the minor is fully restored

(California *Government Code* Section 7579.5[k])

Since a surrogate appointment is contingent on a child's eligibility for special education services, the surrogate parent's appointment lapses when an LEA no longer has the responsibility to provide a free appropriate public education to a student who is represented by a surrogate parent. For example, if a child ceases to be a resident of a particular LEA, the new LEA of residence would be obligated to provide the free appropriate public education. The sending LEA, when terminating the surrogate parent appointment, should notify the new LEA that a surrogate parent was previously appointed, so that the former surrogate parent may provide important information concerning the child's educational needs to the new LEA and any new surrogate parent that may be appointed.

The LEA shall terminate the appointment of a surrogate parent if either of the following circumstances apply:

- The person is not properly performing the duties of a surrogate parent.
- The person has an interest that conflicts with the interests of the child entrusted to his or her care

(California *Government Code* Section 7579.5[h])

The surrogate parent may resign from his or her appointment only after giving notice to the LEA (California *Government Code* Section 7579.5[g]). It is advisable for LEAs to establish policies and procedures for the termination and resignation of appointed surrogate parents and to monitor the surrogate parents who are appointed to ensure that they perform their duties in the special education process and stay free of conflicts of interest. Parental rights automatically revert to the student's parents when the parents return to assume their roles, unless their rights have been limited by a court. When the student reaches the age of majority, the student will assume the parental role within the IEP process.

The Roles of Public Non-educational Agencies and Foster Care Providers

This section describes the responsibilities of the non-educational agencies and foster care providers, provides information needed by these agencies, and highlights the need for interagency collaboration. It also addresses issues related to local mental health providers' involvement with appointed surrogate parents.

The majority of youths who will require surrogate parents are those under the jurisdiction of a county agency (such as Social Services, public guardian, or Probation) or a state agency (such as the California Youth Authority, state hospitals, or developmental centers). Areas of concern are as follows:

- Determination of parental educational rights
- Notification regarding status of wards and dependent children
- Interaction with LEAs and SELPAs
- Interaction with surrogate parents
- Confidentiality
- Mental health assessment and treatment

Since the non-educational agencies (including Regional Centers for the Developmentally Disabled) are charged with the responsibility of maintaining care, custody, and control over children, it is helpful if the agency staff and the surrogate parent understand each others' roles and responsibilities.

Confidentiality

State and federal law protect the confidentiality of student records and limit the disclosure of such records. However, both state and federal law allow the parents to consent to the release of student information (California *Education Code* Section 49076 and Title 20, *United States Code*, Section 1232g[b][1]). Surrogate parents have all the rights

that a natural or biological parent would have, including the right to consent to the release of student information.

The presiding judges of the juvenile courts in many counties have issued special orders outlining authorization to release information in specific circumstances. LEA administrators and surrogate parents should be aware of any such general orders in their county as well as specific orders regarding particular students and should consult with their legal counsel as needed to obtain access to records or to obtain permission to share information when necessary.

To ensure the confidentiality of all records, it is advised that LEAs provide detailed training to surrogate parents to ensure that protected information will not be released and will be appropriately returned or destroyed when the surrogate parent appointment ends. Such an assurance should facilitate the case management interaction with the non-educational agencies.

Local Mental Health Providers' Intervention

When a surrogate parent is appointed and agrees that there is a need for local mental health providers' involvement, California *Government Code* Section 7579.5(c) authorizes the surrogate parent to give written consent for nonemergency medical services, mental health treatment services, and occupational or physical therapy services relative to the IEP of the child being represented (see also California *Education Code* Section 56050[b]).

Monitoring and Complaint Procedures

This section describes various methods for state and local oversight of surrogate parent appointment programs. LEAs are encouraged to maintain adequate records of appointment, training, and monitoring of the surrogate parent program. Likewise, individual surrogate parents are trained and encouraged to comply with appropriate record-keeping policies, procedures, and methods to ensure that each student's needs for special education and related services are appropriately represented in meetings of the IEP team. To ensure that surrogate parent programs are compliant with both federal and state law, these programs are monitored through the California Department of Education's Quality Assurance Process (California *Education Code* Section 56045).

If a compliance complaint is filed by a surrogate parent, it will be handled pursuant to Title 34, *Code of Federal Regulations*, sections 300.151–300.153; California *Education Code* sections 56043(p) and 56500.2; and Title 5, *California Code of Regulations*, sections 4600–4671. A surrogate parent is also entitled to request a due process hearing to resolve a dispute over the content of an IEP pursuant to California *Education Code* Section 56500, et seq. Complaints arising under the interagency coordination statute can be addressed pursuant to California *Government Code* Section 7585.

Other agencies and departments interacting with the child will have distinct monitoring and complaint procedures with which the LEA must coordinate. When contracting with a nonpublic school or agency to provide special education and related services for eligible students, the LEA should consider whether its contract provisions ensure access for surrogate parents. In addition, public, non-educational agencies have established complaint procedures in place to ensure that the best interests of the child are always the primary concern of any assigned staff.

Appendix A Statutory and Regulatory References

The text of pertinent federal and state statutes and regulations are provided below and are current as of July 2018.

Federal Statutes

Title 20, *United States Code*, Section 1415(b)(2)(A) and (B)

(2)(A) Procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual to act as a surrogate for the parents, which surrogate shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child. In the case of—

(i) a child who is a ward of the State, such surrogate may alternatively be appointed by the judge overseeing the child’s care provided that the surrogate meets the requirements of this paragraph; and

(ii) an unaccompanied homeless youth as defined in section 11434a(6) of title 42, the local educational agency shall appoint a surrogate in accordance with this paragraph.

(B) The State shall make reasonable efforts to ensure the assignment of a surrogate not more than 30 days after there is a determination by the agency that the child needs a surrogate.

Federal Regulations

Title 34, *Code of Federal Regulations*, Section 300.30 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;
- (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: Title 20, *United States Code*, Section 1401[23])

Title 34, Code of Federal Regulations, Section 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)).

(b) *Duties of public agency.* The duties of a public agency under paragraph (a) of this section include the assignment of an individual to act as a surrogate for the parents. This must include a method—

- (1) For determining whether a child needs a surrogate parent; and
- (2) For assigning a surrogate parent to the child.

(c) *Wards of the State.* In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the child’s case, provided that the surrogate meets the requirements in paragraphs (d)(2)(i) and (e) of this section.

(d) *Criteria for selection of surrogate parents.*

(1) The public agency may select a surrogate parent in any way permitted under State law.

(2) Public agencies must ensure that a person selected as a surrogate parent—

(i) Is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child;

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

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

(e) *Non-employee requirement; compensation.* A person 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) *Unaccompanied homeless youth.* In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to paragraph (d)(2)(i) of this section, until a surrogate parent can be appointed that meets all of the requirements of paragraph (d) of this section.

(g) *Surrogate parent responsibilities.* The surrogate parent may represent the child in all matters relating to—

(1) The identification, evaluation, and educational placement of the child; and

(2) The provision of FAPE to the child.

(h) *SEA responsibility.* The SEA 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: Title 20, *United States Code*, Section 1415[b][2])

California Education Code

California Education Code Section 49076

(a) A school district shall not permit access to pupil records to a person without written parental consent or under judicial order except as set forth in this section and as permitted by Part 99 (commencing with Section 99.1) of Title 34 of the Code of Federal Regulations.

(1) Access to those particular records relevant to the legitimate educational interests of the requester shall be permitted to the following:

(A) School officials and employees of the school district, members of a school attendance review board appointed pursuant to Section 48321 who are authorized representatives of the school district, and any volunteer aide, 18 years of age or older, who has been investigated, selected, and trained by a school attendance review board for the purpose of providing followup services to pupils referred to the school attendance review board, provided that the person has a legitimate educational interest to inspect a record.

(B) Officials and employees of other public schools or school systems, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided or where the pupil intends to or is directed to enroll, subject to the rights of parents as provided in Section 49068.

(C) Authorized representatives of the Comptroller General of the United States, the United States Secretary of Education, and state and local educational authorities, or the United States Department of Education's Office for Civil Rights, if the information is necessary to audit or evaluate a state or federally supported educational program, or in connection with the enforcement of, or compliance with, the federal legal requirements that relate to such a program. Records released pursuant to this subparagraph shall comply with the requirements of Section 99.35 of Title 34 of the Code of Federal Regulations.

(D) Other state and local officials to the extent that information is specifically required to be reported pursuant to state law adopted before November 19, 1974.

(E) Parents of a pupil 18 years of age or older who is a dependent as defined in Section 152 of Title 26 of the United States Code.

(F) A pupil 16 years of age or older or having completed the 10th grade.

(G) A district attorney who is participating in or conducting a truancy mediation program pursuant to Section 48263.5 of this code or Section 601.3 of the Welfare and Institutions Code, or participating in the presentation of evidence in a truancy petition pursuant to Section 681 of the Welfare and Institutions Code.

(H) A district attorney's office for consideration against a parent or guardian for failure to comply with the Compulsory Education Law (Chapter 2 (commencing with Section 48200)) or with Compulsory Continuation Education (Chapter 3 (commencing with Section 48400)).

(I)(i) A probation officer, district attorney, or counsel of record for a minor for purposes of conducting a criminal investigation or an investigation in regards to declaring a person a ward of the court or involving a violation of a condition of probation.

(ii) For purposes of this subparagraph, a probation officer, district attorney, and counsel of record for a minor shall be deemed to be local officials for purposes of Section 99.31(a)(5)(i) of Title 34 of the Code of Federal Regulations.

(iii) Pupil records obtained pursuant to this subparagraph shall be subject to the evidentiary rules described in Section 701 of the Welfare and Institutions Code.

(J) A judge or probation officer for the purpose of conducting a truancy mediation program for a pupil, or for purposes of presenting evidence in a truancy petition pursuant to Section 681 of the Welfare and Institutions Code. The judge or probation officer shall certify in writing to the school district that the information will be used only for truancy purposes. A school district releasing pupil information to a judge or probation officer pursuant to this subparagraph shall inform, or provide written notification to, the parent or guardian of the pupil within 24 hours of the release of the information.

(K) A county placing agency when acting as an authorized representative of a state or local educational agency pursuant to subparagraph (C). School districts, county offices of education, and county placing agencies may develop cooperative agreements to facilitate confidential access to and exchange of the pupil information by email, facsimile, electronic format, or other secure means, if the agreement complies with the requirements set forth in Section 99.35 of Title 34 of the Code of Federal Regulations.

(L) A pupil 14 years of age or older who meets both of the following criteria:

(i) The pupil is a homeless child or youth, as defined in paragraph (2) of Section 725 of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(2)).

(ii) The pupil is an unaccompanied youth, as defined in paragraph (6) of Section 725 of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(6)).

(M) An individual who completes items 1 to 4, inclusive, of the Caregiver's Authorization Affidavit, as provided in Section 6552 of the Family Code, and signs the affidavit for the purpose of enrolling a minor in school.

(N)(i) An agency caseworker or other representative of a state or local child welfare agency, or tribal organization, as defined in Section 450b of Title 25 of the United States Code, that has legal responsibility, in accordance with state or tribal law, for the care and protection of the pupil.

(ii) The agency or organization specified in clause (i) may disclose pupil records, or the personally identifiable information contained in those records, to an individual or entity engaged in addressing the pupil's educational needs, if the individual or entity is authorized by the agency or organization to receive the disclosure and the information requested is directly related to the assistance provided by that individual or entity. The records, or the personally identifiable information contained in those records, shall not otherwise be disclosed by that agency or organization, except as provided under the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g), state law, including paragraph (3), and tribal law.

(O) A foster family agency with jurisdiction over a currently enrolled or former pupil, a short-term residential treatment program staff responsible for the education or case management of a pupil, and a caregiver who has direct responsibility for the care of the pupil, including a certified or licensed foster parent, an approved relative or nonrelated extended family member, or a resource family, as defined in Section 1517 of the Health and Safety Code and Section 16519.5 of the Welfare and Institutions Code, pursuant to Section 49069.3 of this code.

(2) School districts may release information from pupil records to the following:

(A) Appropriate persons in connection with an emergency if the knowledge of the information is necessary to protect the health or safety of a pupil or other persons. Schools or school districts releasing information pursuant to this subparagraph shall comply with the requirements set forth in Section 99.32(a)(5) of Title 34 of the Code of Federal Regulations.

(B) Agencies or organizations in connection with the application of a pupil for, or receipt of, financial aid. However, information permitting the personal identification of a pupil or his or her parents may be disclosed only as may be necessary for purposes as to determine the eligibility of the pupil for financial aid, to determine the amount of the financial aid, to determine the conditions that will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.

(C) Pursuant to Section 99.37 of Title 34 of the Code of Federal Regulations, a county elections official, for the purpose of identifying pupils eligible to register to vote, or for conducting programs to offer pupils an opportunity to register to vote. The information shall not be used for any other purpose or given or transferred to any other person or agency.

(D) Accrediting associations in order to carry out their accrediting functions.

(E) Organizations conducting studies for, or on behalf of, educational agencies or institutions for purposes of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if the studies are conducted in a manner that will not permit the personal identification of pupils or their parents by persons other than representatives of the organizations, the information will

be destroyed when no longer needed for the purpose for which it is obtained, and the organization enters into a written agreement with the educational agency or institution that complies with Section 99.31(a)(6) of Title 34 of the Code of Federal Regulations.

(F) Officials and employees of private schools or school systems where the pupil is enrolled or intends to enroll, subject to the rights of parents as provided in Section 49068 and in compliance with the requirements in Section 99.34 of Title 34 of the Code of Federal Regulations. This information shall be in addition to the pupil's permanent record transferred pursuant to Section 49068.

(G)(i) A contractor or consultant with a legitimate educational interest who has a formal written agreement or contract with the school district regarding the provision of outsourced institutional services or functions by the contractor or consultant.

(ii) Notwithstanding the authorization in Section 99.31(a)(1)(i)(B) of Title 34 of the Code of Federal Regulations, a disclosure pursuant to this subparagraph shall not be permitted to a volunteer or other party.

(3) A person, persons, agency, or organization permitted access to pupil records pursuant to this section shall not permit access to any information obtained from those records by another person, persons, agency, or organization, except for allowable exceptions contained within the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and state law, including this section, and implementing regulations, without the written consent of the pupil's parent. This paragraph shall not require prior parental consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency, or organization obtaining access, so long as those persons have a legitimate educational interest in the information pursuant to Section 99.31(a)(1) of Title 34 of the Code of Federal Regulations.

(4) Notwithstanding any other law, a school district, including a county office of education or county superintendent of schools, may participate in an interagency data information system that permits access to a computerized database system within and between governmental agencies or school districts as to information or records that are nonprivileged, and where release is authorized as to the requesting agency under state or federal law or regulation, if each of the following requirements is met:

(A) Each agency and school district shall develop security procedures or devices by which unauthorized personnel cannot access data contained in the system.

(B) Each agency and school district shall develop procedures or devices to secure privileged or confidential data from unauthorized disclosure.

(C) Each school district shall comply with the access log requirements of Section 49064.

(D) The right of access granted shall not include the right to add, delete, or alter data without the written permission of the agency holding the data.

(E) An agency or school district shall not make public or otherwise release information on an individual contained in the database if the information is protected from disclosure or release as to the requesting agency by state or federal law or regulation.

(b) The officials and authorities to whom pupil records are disclosed pursuant to subdivision (e) of Section 48902 and subparagraph (l) of paragraph (1) of subdivision (a) shall certify in writing to the disclosing school district that the information shall not be disclosed to another party, except as provided under the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and state law, without the prior written consent of the parent of the pupil or the person identified as the holder of the pupil's educational rights.

(c)(1) A person or party who is not permitted access to pupil records pursuant to subdivision (a) or (b) may request access to pupil records as provided for in paragraph (2).

(2) A local educational agency or other person or party who has received pupil records, or information from pupil records, may release the records or information to a person or party identified in paragraph (1) without the consent of the pupil's parent or guardian pursuant to Section 99.31(b) of Title 34 of the Code of Federal Regulations, if the records or information are deidentified, which requires the removal of all personally identifiable information, if the disclosing local educational agency or other person or party has made a reasonable determination that a pupil's identity is not personally identifiable, whether through single or multiple releases, and has taken into account other pertinent reasonably available information.

(Amended by Statutes of 2017, Chapter 829, Section 3. Effective January 1, 2018.)

California Education Code Section 56028

(a) "Parent" means any of the following:

(1) A biological or adoptive parent of a child.

(2) A foster parent if the authority of the biological or adoptive parents to make educational decisions on the child's behalf specifically has been limited by court order in accordance with Section 300.30(b)(1) or (2) of Title 34 of the Code of Federal Regulations.

(3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child, including a responsible adult appointed for the child in accordance with Sections 361 and 726 of the Welfare and Institutions Code.

(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.

(5) A surrogate parent who has been appointed pursuant to Section 7579.5 or 7579.6 of the Government Code, and in accordance with Section 300.519 of Title 34 of the Code of Federal Regulations and Section 1439(a)(5) of Title 20 of the United States Code.

(b)(1) Except as provided in paragraph (2), the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under subdivision (a) to act as a parent, shall 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 (1) to (4), inclusive, of subdivision (a) to act as the “parent” of a child or to make educational decisions on behalf of a child, then that person or persons shall be determined to be the “parent” for purposes of this part, Article 1 (commencing with Section 48200) of Chapter 2 of Part 27 of Division 4 of Title 2, and Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, and Sections 361 and 726 of the Welfare and Institutions Code.

(c) “Parent” does not include the state or any political subdivision of government.

(d) “Parent” does not include a nonpublic, nonsectarian school or agency under contract with a local educational agency for the provision of special education or designated instruction and services for a child.

(Amended by Statutes of 2008, Chapter 223, Section 12. Effective January 1, 2009.)

California Education Code Section 56050

(a) For the purposes of this article, “surrogate parent” shall be defined as it is defined in Section 300.519 of Title 34 of the Code of Federal Regulations.

(b) A surrogate parent may represent an individual with exceptional needs in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the individualized education program, and in other matters relating to the provision of a free appropriate public education to the individual. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the individualized education program including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. The surrogate parent may sign any consent relating to individualized education program purposes.

(c) A surrogate parent shall be held harmless by the State of California when acting in his or her official capacity except for acts or omissions that are found to have been wanton, reckless, or malicious.

(d) A surrogate parent shall also be governed by Section 7579.5 of the Government Code.

(Amended by Statutes of 2007, Chapter 56, Section 14. Effective January 1, 2008)

California Education Code Section 56156

(a) Each court, regional center for the developmentally disabled, or public agency that engages in referring children to, or placing children in, licensed children's institutions shall report to the special education administrator of the special education local plan area in which the licensed children's institution is located any referral or admission of a child who is potentially eligible for special education.

(b) At the time of placement in a licensed children's institution or foster family home, each court, regional center for the developmentally disabled, or public agency shall identify all of the following:

(1) Whether the courts have specifically limited the rights of the parent or guardian to make educational decisions for a child who is a ward or dependent of the court.

(2) The location of the parents, in the event that the parents retain the right to make educational decisions.

(3) Whether the location of the parents is unknown.

(c) Each person licensed by the state to operate a licensed children's institution, or his or her designee, shall notify the special education administrator of the special education local plan area in which the licensed children's institution is located of any child potentially eligible for special education who resides at the facility.

(d) The Superintendent shall provide each county office of education with a current list of licensed children's institutions in that county at least biannually. The county office shall maintain the most current list of licensed children's institutions located within the county and shall notify each district and special education local plan area within the county of the names of licensed children's institutions located in the geographical area of the county covered by the district and special education local plan area. The county office shall notify the director of each licensed children's institution of the appropriate person to contact regarding individuals with exceptional needs.

(Amended by Statutes of 2007, Chapter 56, Section 22. Effective January 1, 2008.)

California Education Code Section 56366

It is the intent of the Legislature that the role of a nonpublic, nonsectarian school or agency shall be maintained and continued as an alternative special education service available to a local educational agency and parents.

(Amended by Statutes of 2015, Chapter 386, Section 26. Effective January 1, 2016.)

California Government Code

California Government Code Section 7579

(a) Prior to placing a disabled child or a child suspected of being disabled in a residential facility, outside the child's home, a court, regional center for the developmentally disabled, or public agency other than an educational agency, shall notify the administrator of the special education local plan area in which the residential facility is located. The administrator of the special education local plan area shall provide the court or other placing agency with information about the availability of an appropriate public or nonpublic, nonsectarian special education program in the special education local plan area where the residential facility is located.

(b) Notwithstanding Section 56159 of the Education Code, the involvement of the administrator of the special education local plan area in the placement discussion, pursuant to subdivision (a), shall in no way obligate a public education agency to pay for the residential costs and the cost of noneducational services for a child placed in a licensed children's institution or foster family home.

(c) It is the intent of the Legislature that this section will encourage communication between the courts and other public agencies that engage in referring children to, or placing children in, residential facilities, and representatives of local educational agencies. It is not the intent of this section to hinder the courts or public agencies in their responsibilities for placing disabled children in residential facilities when appropriate.

(d) Any public agency other than an educational agency that places a disabled child or a child suspected of being disabled in a facility out of state without the involvement of the school district, special education local plan area, or county office of education in which the parent or guardian resides, shall assume all financial responsibility for the child's residential placement, special education program, and related services in the other state unless the other state or its local agencies assume responsibility.

(Amended by Statutes of 2002, Chapter 585, Section 3. Effective January 1, 2003.)

California Government Code Section 7579.1

(a) Prior to the discharge of any disabled child or youth who has an active individualized education program from a public hospital, proprietary hospital, or residential medical facility pursuant to Article 5.5 (commencing with Section 56167) of Chapter 2 of Part 30 of the Education Code, a licensed children's institution or foster family home pursuant to Article 5 (commencing with Section 56155) of Chapter 2 of Part 30 of the Education Code, or a state hospital or developmental center, the following shall occur:

(1) The operator of the hospital or medical facility, or the agency that placed the child in the licensed children's institution or foster family home, shall, at least 10 days prior to the discharge of a disabled child or youth, notify in writing the local educational agency in which the special education program for the child is being provided, and the receiving special education local plan area where the child is being transferred, of the impending discharge.

(2) The operator or placing agency, as part of the written notification, shall provide the receiving special education local plan area with a copy of the child's individualized education program, the identity of the individual responsible for representing the interests of the child for educational and related services for the impending placement, and other relevant information about the child that will be useful in implementing the child's individualized education program in the receiving special education local plan area.

(b) Once the disabled child or youth has been discharged, it shall be the responsibility of the receiving local educational agency to ensure that the disabled child or youth receives an appropriate educational placement that commences without delay upon his or her discharge from the hospital, institution, facility, or foster family home in accordance with Section 56325 of the Education Code. Responsibility for the provision of special education rests with the school district of residence of the parent or guardian of the child unless the child is placed in another hospital, institution, facility, or foster family home in which case the responsibility of special education rests with the school district in which the child resides pursuant to Sections 56156.4, 56156.6, and 56167 of the Education Code.

(c) Special education local plan area directors shall document instances where the procedures in subdivision (a) are not being adhered to and report these instances to the Superintendent of Public Instruction.

(Amended by Statutes of 2014, Chapter 144, Section 20. Effective January 1, 2015.)

California Government Code Section 7579.5

(a) In accordance with Section 1415(b)(2)(B) of Title 20 of the United States Code, a local educational agency shall make reasonable efforts to ensure the appointment of a surrogate parent not more than 30 days after there is a determination by the local educational agency that a child needs a surrogate parent. A local educational agency shall appoint a surrogate parent for a child in accordance with Section 300.519 of Title 34 of the Code of Federal Regulations under one or more of the following circumstances:

(1)(A) The child is adjudicated a dependent or ward of the court pursuant to Section 300, 601, or 602 of the Welfare and Institutions Code upon referral of the child to the local educational agency for special education and related services, or if the child already has a valid individualized education program, (B) the court specifically has limited the right of the parent or guardian to make educational decisions for the child, and (C) the child

has no responsible adult to represent him or her pursuant to Section 361 or 726 of the Welfare and Institutions Code or Section 56055 of the Education Code.

(2) No parent for the child can be identified.

(3) The local educational agency, after reasonable efforts, cannot discover the location of a parent.

(b) When appointing a surrogate parent, the local educational agency, as a first preference, shall select a relative caretaker, foster parent, or court-appointed special advocate, if any of these individuals exists and is willing and able to serve. If none of these individuals is willing or able to act as a surrogate parent, the local educational agency shall select the surrogate parent of its choice. 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 educational agency shall appoint another surrogate parent if a new appointment is necessary to ensure adequate representation of the child.

(c) For purposes of this section, the surrogate parent shall serve as the child's parent and shall have the rights relative to the child's education that a parent has under Title 20 (commencing with Section 1400) of the United States Code and pursuant to Part 300 of Title 34 (commencing with Section 300.1) of the Code of Federal Regulations. 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, reviewing and revising the individualized education program, and in all other matters relating to the provision of a free appropriate public education of the child. Notwithstanding any other provision of law, this representation shall include the provision of written consent to the individualized education program including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to this chapter.

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

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

(f) The surrogate parent shall comply with federal and state law pertaining to the confidentiality of student records and information and shall use discretion in the necessary sharing of the information with appropriate persons for the purpose of furthering the interests of the child.

(g) The surrogate parent may resign from his or her appointment only after he or she gives notice to the local educational agency.

(h) The local educational agency shall terminate the appointment of a surrogate parent if (1) the person is not properly performing the duties of a surrogate parent or (2) the person has an interest that conflicts with the interests of the child entrusted to his or her care.

(i) Individuals who would have a conflict of interest in representing the child, as specified in Section 300.519(d) of Title 34 of the Code of Federal Regulations, shall not be appointed as a surrogate parent. "An individual who would have a conflict of interest," for purposes of this section, means a person having any interests that might restrict or bias his or her ability to advocate for all of the services required to ensure that the child has a free appropriate public education.

(j) Except for individuals who have a conflict of interest in representing the child, and notwithstanding any other law or regulation, individuals who may serve as surrogate parents include, but are not limited to, foster care providers, retired teachers, social workers, and probation officers who are not employees of the State Department of Education, the local educational agency, or any other agency that is involved in the education or care of the child.

(1) A public agency authorized to appoint a surrogate parent under this section may select a person who is an employee of a nonpublic agency that only provides noneducational care for the child and who meets the other standards of this section.

(2) A person who otherwise qualifies to be a surrogate parent under this section is not an employee of the local educational agency solely because he or she is paid by the local educational agency to serve as a surrogate parent.

(k) The surrogate parent may represent the child until (1) the child is no longer in need of special education, (2) the minor reaches 18 years of age, unless the child chooses not to make educational decisions for himself or herself, or is deemed by a court to be incompetent, (3) another responsible adult is appointed to make educational decisions for the minor, or (4) the right of the parent or guardian to make educational decisions for the minor is fully restored.

(l) The surrogate parent and the local educational agency appointing the surrogate parent shall be held harmless by the State of California when acting in their official capacity except for acts or omissions that are found to have been wanton, reckless, or malicious.

(m) The State Department of Education shall develop a model surrogate parent training module and manual that shall be made available to local educational agencies.

(n) Nothing in this section may be interpreted to prevent a parent or guardian of an individual with exceptional needs from designating another adult individual to represent the interests of the child for educational and related services.

(o) If funding for implementation of this section is provided, it may only be provided from Item 6110-161-0890 of Section 2.00 of the annual Budget Act.

(Amended by Statutes of 2007, Chapter 56, Section 99. Effective January 1, 2008.)

California Government Code Section 7585

(a) Whenever a department or local agency designated by that department fails to provide a related service or designated instruction and service required pursuant to Section 7575, and specified in the pupil's individualized education program, the parent, adult pupil, if applicable, or a local educational agency referred to in this chapter, shall submit a written notification of the failure to provide the service to the Superintendent of Public Instruction or the Secretary of California Health and Human Services.

(b) When either the Superintendent or the secretary receives a written notification of the failure to provide a service as specified in subdivision (a), a copy shall immediately be transmitted to the other party. The Superintendent, or his or her designee, and the secretary, or his or her designee, shall meet to resolve the issue within 15 calendar days of receipt of the notification. A written copy of the meeting resolution shall be mailed to the parent, the local educational agency, and affected departments, within 10 days of the meeting.

(c) If the issue cannot be resolved within 15 calendar days to the satisfaction of the Superintendent and the secretary, they shall jointly submit the issue in writing to the Director of the Office of Administrative Hearings, or his or her designee, in the Department of General Services.

(d) The Director of the Office of Administrative Hearings, or his or her designee, shall review the issue and submit his or her findings in the case to the Superintendent and the secretary within 30 calendar days of receipt of the case. The decision of the director, or his or her designee, shall be binding on the departments and their designated agencies who are parties to the dispute.

(e) If the meeting, conducted pursuant to subdivision (b), fails to resolve the issue to the satisfaction of the parent or local educational agency, either party may appeal to the director, whose decision shall be the final administrative determination and binding on all parties.

(f) Whenever notification is filed pursuant to subdivision (a), the pupil affected by the dispute shall be provided with the appropriate related service or designated instruction and service pending resolution of the dispute, if the pupil had been receiving the service.

The Superintendent and the secretary shall ensure that funds are available for the provision of the service pending resolution of the issue pursuant to subdivision (e).

(g) This section does not prevent a parent or adult pupil from filing for a due process hearing under Section 7586.

(h) The contract between the State Department of Education and the Office of Administrative Hearings for conducting due process hearings shall include payment for services rendered by the Office of Administrative Hearings which are required by this section.

(Amended by Statutes of 2011, Chapter 43, Section 40. Effective June 30, 2011.)

California Welfare and Institutions Code

California Welfare and Institutions Code Section 245.5

In addition to all other powers granted by law, the juvenile court may direct all such orders to the parent, parents, or guardian of a minor who is subject to any proceedings under this chapter as the court deems necessary and proper for the best interests of or for the rehabilitation of the minor. These orders may concern the care, supervision, custody, conduct, maintenance, and support of the minor, including education and medical treatment.

(Amended by Statutes of 1990, Chapter 182, Section 6.)

California Welfare and Institutions Code Section 300

A child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

(a) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian. For purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the parent or guardian that indicate the child is at risk of serious physical harm. For purposes of this subdivision, "serious physical harm" does not include reasonable and age-appropriate spanking to the buttocks if there is no evidence of serious physical injury.

(b)(1) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, or by the willful or negligent

failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse. A child shall not be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a child comes within the jurisdiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by an accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the child from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment proposed by the parent or guardian, (2) the risks to the child posed by the course of treatment or nontreatment proposed by the parent or guardian, (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent or guardian and agency. The child shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the child from risk of suffering serious physical harm or illness.

(2) The Legislature finds and declares that a child who is sexually trafficked, as described in Section 236.1 of the Penal Code, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in Section 236.1 or 11165.1 of the Penal Code, and whose parent or guardian failed to, or was unable to, protect the child, is within the description of this subdivision, and that this finding is declaratory of existing law. These children shall be known as commercially sexually exploited children.

(c) The child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care. A child shall not be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.

(d) The child has been sexually abused, or there is a substantial risk that the child will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from sexual abuse when the parent or guardian knew or reasonably should have known that the child was in danger of sexual abuse.

(e) The child is under the age of five years and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should

have known that the person was physically abusing the child. For the purposes of this subdivision, “severe physical abuse” means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness; or the willful, prolonged failure to provide adequate food. A child shall not be removed from the physical custody of his or her parent or guardian on the basis of a finding of severe physical abuse unless the social worker has made an allegation of severe physical abuse pursuant to Section 332.

(f) The child’s parent or guardian caused the death of another child through abuse or neglect.

(g) The child has been left without any provision for support; physical custody of the child has been voluntarily surrendered pursuant to Section 1255.7 of the Health and Safety Code and the child has not been reclaimed within the 14-day period specified in subdivision (g) of that section; the child’s parent has been incarcerated or institutionalized and cannot arrange for the care of the child; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent are unknown, and reasonable efforts to locate the parent have been unsuccessful.

(h) The child has been freed for adoption by one or both parents for 12 months by either relinquishment or termination of parental rights or an adoption petition has not been granted.

(i) The child has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the child was in danger of being subjected to an act or acts of cruelty.

(j) The child’s sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child.

It is the intent of the Legislature that this section not disrupt the family unnecessarily or intrude inappropriately into family life, prohibit the use of reasonable methods of parental discipline, or prescribe a particular method of parenting. Further, this section

is not intended to limit the offering of voluntary services to those families in need of assistance but who do not come within the descriptions of this section. To the extent that savings accrue to the state from child welfare services funding obtained as a result of the enactment of the act that enacted this section, those savings shall be used to promote services which support family maintenance and family reunification plans, such as client transportation, out-of-home respite care, parenting training, and the provision of temporary or emergency in-home caretakers and persons teaching and demonstrating homemaking skills. The Legislature further declares that a physical disability, such as blindness or deafness, is no bar to the raising of happy and well-adjusted children and that a court's determination pursuant to this section shall center upon whether a parent's disability prevents him or her from exercising care and control. The Legislature further declares that a child whose parent has been adjudged a dependent child of the court pursuant to this section shall not be considered to be at risk of abuse or neglect solely because of the age, dependent status, or foster care status of the parent.

As used in this section, "guardian" means the legal guardian of the child.

(Amended by Statutes of 2015, Chapter 303, Section 566. Effective January 1, 2016.)

California Welfare and Institutions Code Section 361(a)

(a)(1) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent, guardian, or Indian custodian and shall by its order clearly and specifically set forth all those limitations. Any limitation on the right of the parent, guardian, or Indian custodian to make educational or developmental services decisions for the child shall be specifically addressed in the court order. The limitations may not exceed those necessary to protect the child. If the court specifically limits the right of the parent, guardian, or Indian custodian to make educational or developmental services decisions for the child, or, for the nonminor dependent, if the court finds the appointment of a developmental services decisionmaker to be in the best interests of the nonminor dependent, the court shall at the same time appoint a responsible adult to make educational or developmental services decisions for the child or nonminor dependent until one of the following occurs:

- (A) The minor reaches 18 years of age, unless the child or nonminor dependent chooses not to make educational or developmental services decisions for himself or herself, or is deemed by the court to be incompetent.
- (B) Another responsible adult is appointed to make educational or developmental services decisions for the minor pursuant to this section.
- (C) The right of the parent, guardian, or Indian custodian to make educational or developmental services decisions for the minor is fully restored.

(D) A successor guardian or conservator is appointed.

(E) The child is placed into a planned permanent living arrangement pursuant to paragraph (5) of subdivision (g) of Section 366.21, Section 366.22, Section 366.26, or subdivision (i) of Section 366.3, at which time, for educational decisionmaking, the foster parent, relative caretaker, or nonrelative extended family member as defined in Section 362.7, has the right to represent the child in educational matters pursuant to Section 56055 of the Education Code, and for decisions relating to developmental services, unless the court specifies otherwise, the foster parent, relative caregiver, or nonrelative extended family member of the planned permanent living arrangement has the right to represent the child or nonminor dependent in matters related to developmental services.

(2) An individual who would have a conflict of interest in representing the child or nonminor dependent shall not be appointed to make educational or developmental services decisions. For purposes of this section, “an individual who would have a conflict of interest” means a person having any interests that might restrict or bias his or her ability to make educational or developmental services decisions, including, but not limited to, those conflicts of interest prohibited by Section 1126 of the Government Code, and the receipt of compensation or attorney’s fees for the provision of services pursuant to this section. A foster parent shall not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section.

(3) Regardless of the person or persons currently holding the right to make educational decisions for the child, a foster parent, relative caregiver, nonrelated extended family member, or resource family shall retain rights and obligations regarding accessing and maintaining health and education information pursuant to Sections 49069.3 and 49076 of the Education Code and Section 16010 of this code.

(4)(A) If the court limits the parent’s, guardian’s, or Indian custodian’s educational rights pursuant to this subdivision, the court shall determine whether there is a responsible adult who is a relative, nonrelative extended family member, or other adult known to the child who is available and willing to serve as the child’s educational representative before appointing an educational representative or surrogate who is not known to the child.

(B) If the court cannot identify a responsible adult who is known to the child and available to make educational decisions for the child, subparagraphs (A) to (E), inclusive, of paragraph (1) do not apply, and the child has either been referred to the local educational agency for special education and related services, or has a valid individualized education program, the court shall refer the child to the local educational agency for appointment of a surrogate parent pursuant to Section 7579.5 of the Government Code.

(C) If the court cannot identify a responsible adult to make educational decisions for the child, the appointment of a surrogate parent as defined in subdivision (a) of Section 56050 of the Education Code is not warranted, and there is no foster parent to exercise the

authority granted by Section 56055 of the Education Code, the court may, with the input of any interested person, make educational decisions for the child.

(5)(A) If the court appoints a developmental services decisionmaker pursuant to this section, he or she shall have the authority to access the child's or nonminor dependent's information and records pursuant to subdivision (u) of Section 4514 and paragraph (23) of subdivision (a) of Section 5328, and to act on the child's or nonminor dependent's behalf for the purposes of the individual program plan process pursuant to Sections 4646, 4646.5, and 4648 and the fair hearing process pursuant to Chapter 7 (commencing with Section 4700) of Division 4.5, and as set forth in the court order.

(B) If the court cannot identify a responsible adult to make developmental services decisions for the child or nonminor dependent, the court may, with the input of any interested person, make developmental services decisions for the child or nonminor dependent. If the child is receiving services from a regional center, the provision of any developmental services related to the court's decision must be consistent with the child's or nonminor dependent's individual program plan and pursuant to the provisions of the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)).

(6) All educational and school placement decisions shall seek to ensure that the child is in the least restrictive educational programs and has access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils. In all instances, educational and school placement decisions shall be based on the best interests of the child. If an educational representative or surrogate is appointed for the child, the representative or surrogate shall meet with the child, shall investigate the child's educational needs and whether those needs are being met, and shall, prior to each review hearing held under this article, provide information and recommendations concerning the child's educational needs to the child's social worker, make written recommendations to the court, or attend the hearing and participate in those portions of the hearing that concern the child's education.

(7) Nothing in this section in any way removes the obligation to appoint surrogate parents for students with disabilities who are without parental representation in special education procedures as required by state and federal law, including Section 1415(b)(2) of Title 20 of the United States Code, Section 56050 of the Education Code, Section 7579.5 of the Government Code, and Rule 5.650 of the California Rules of Court.

(Amended by Statutes of 2018, Chapter 833, Section 27. Effective January 1, 2019.)

California Welfare and Institutions Code Section 726

(a) In all cases in which a minor is adjudged a ward or dependent child of the court, the court may limit the control to be exercised over the ward or dependent child by

any parent or guardian and shall, in its order, clearly and specifically set forth all those limitations, but no ward or dependent child shall be taken from the physical custody of a parent or guardian, unless upon the hearing the court finds one of the following facts:

(1) That the parent or guardian is incapable of providing or has failed or neglected to provide proper maintenance, training, and education for the minor.

(2) That the minor has been tried on probation while in custody and has failed to reform.

(3) That the welfare of the minor requires that custody be taken from the minor's parent or guardian.

(b) Whenever the court specifically limits the right of the parent or guardian to make educational or developmental services decisions for the minor, the court shall at the same time appoint a responsible adult to make educational or developmental services decisions for the child until one of the following occurs:

(1) The minor reaches 18 years of age, unless the child chooses not to make educational or developmental services decisions for himself or herself, or is deemed by the court to be incompetent.

(2) Another responsible adult is appointed to make educational or developmental services decisions for the minor pursuant to this section.

(3) The right of the parent or guardian to make educational or developmental services decisions for the minor is fully restored.

(4) A successor guardian or conservator is appointed.

(5) The child is placed into a planned permanent living arrangement pursuant to paragraph (5) or (6) of subdivision (b) of Section 727.3, at which time, for educational decisionmaking, the foster parent, relative caretaker, or nonrelative extended family member, as defined in Section 362.7, has the right to represent the child in educational matters pursuant to Section 56055 of the Education Code, and for decisions relating to developmental services, unless the court specifies otherwise, the foster parent, relative caregiver, or nonrelative extended family member of the planned permanent living arrangement has the right to represent the child in matters related to developmental services.

(c) An individual who would have a conflict of interest in representing the child, as specified under federal regulations, may not be appointed to make educational decisions. The limitations applicable to conflicts of interest for educational rights holders shall also apply to authorized representatives for developmental services decisions pursuant to subdivision (b) of Section 4701.6. For purposes of this section, "an individual who would have a conflict of interest" means a person having any interests that might restrict or bias his or her ability to make educational or developmental services decisions, including, but

not limited to, those conflicts of interest prohibited by Section 1126 of the Government Code, and the receipt of compensation or attorneys' fees for the provision of services pursuant to this section. A foster parent may not be deemed to have a conflict of interest solely because he or she receives compensation for the provision of services pursuant to this section.

(1) If the court limits the parent's educational rights pursuant to subdivision (a), the court shall determine whether there is a responsible adult who is a relative, nonrelative extended family member, or other adult known to the child and who is available and willing to serve as the child's educational representative before appointing an educational representative or surrogate who is not known to the child.

If the court cannot identify a responsible adult who is known to the child and available to make educational decisions for the child and paragraphs (1) to (5), inclusive, of subdivision (b) do not apply, and the child has either been referred to the local educational agency for special education and related services or has a valid individualized education program, the court shall refer the child to the local educational agency for appointment of a surrogate parent pursuant to Section 7579.5 of the Government Code.

(2) All educational and school placement decisions shall seek to ensure that the child is in the least restrictive educational programs and has access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils. In all instances, educational and school placement decisions shall be based on the best interests of the child. If an educational representative or surrogate is appointed for the child, the representative or surrogate shall meet with the child, shall investigate the child's educational needs and whether those needs are being met, and shall, before each review hearing held under Article 10 (commencing with Section 360), provide information and recommendations concerning the child's educational needs to the child's social worker, make written recommendations to the court, or attend the hearing and participate in those portions of the hearing that concern the child's education.

(3) Nothing in this section in any way removes the obligation to appoint surrogate parents for students with disabilities who are without parental representation in special education procedures as required by state and federal law, including Section 1415(b)(2) of Title 20 of the United States Code, Section 56050 of the Education Code, Section 7579.5 of the Government Code, and Rule 5.650 of the California Rules of Court.

If the court appoints a developmental services decisionmaker pursuant to this section, he or she shall have the authority to access the child's information and records pursuant to subdivision (u) of Section 4514 and subdivision (y) of Section 5328, and to act on the child's behalf for the purposes of the individual program plan process pursuant to Sections 4646, 4646.5, and 4648 and the fair hearing process pursuant to Chapter 7 (commencing with Section 4700) of Division 4.5, and as set forth in the court order.

(d)(1) If the minor is removed from the physical custody of his or her parent or guardian as the result of an order of wardship made pursuant to Section 602, the order shall specify that the minor may not be held in physical confinement for a period in excess of the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court.

(2) As used in this section and in Section 731, "maximum term of imprisonment" means the longest of the three time periods set forth in paragraph (3) of subdivision (a) of Section 1170 of the Penal Code, but without the need to follow the provisions of subdivision (b) of Section 1170 of the Penal Code or to consider time for good behavior or participation pursuant to Sections 2930, 2931, and 2932 of the Penal Code, plus enhancements which must be proven if pled.

(3) If the court elects to aggregate the period of physical confinement on multiple counts or multiple petitions, including previously sustained petitions adjudging the minor a ward within Section 602, the "maximum term of imprisonment" shall be the aggregate term of imprisonment specified in subdivision (a) of Section 1170.1 of the Penal Code, which includes any additional term imposed pursuant to Section 667, 667.5, 667.6, or 12022.1 of the Penal Code, and Section 11370.2 of the Health and Safety Code.

(4) If the charged offense is a misdemeanor or a felony not included within the scope of Section 1170 of the Penal Code, the "maximum term of imprisonment" is the longest term of imprisonment prescribed by law.

(5) "Physical confinement" means placement in a juvenile hall, ranch, camp, forestry camp or secure juvenile home pursuant to Section 730, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Justice.

(6) This section does not limit the power of the court to retain jurisdiction over a minor and to make appropriate orders pursuant to Section 727 for the period permitted by Section 607.

(Amended by Statutes of 2014, Chapter 71, Section 183. Effective January 1, 2015.)

California Welfare and Institutions Code Section 827

(a)(1) Except as provided in Section 828, a case file may be inspected only by the following:

(A) Court personnel.

(B) The district attorney, a city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.

(C) The minor who is the subject of the proceeding.

(D) The minor's parent or guardian.

(E) The attorneys for the parties, judges, referees, other hearing officers, probation officers, and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the minor.

(F) The county counsel, city attorney, or any other attorney representing the petitioning agency in a dependency action.

(G) The superintendent or designee of the school district where the minor is enrolled or attending school.

(H) Members of the child protective agencies as described in Section 11165.9 of the Penal Code.

(I) The State Department of Social Services, to carry out its duties pursuant to Division 9 (commencing with Section 10000) of this code and Part 5 (commencing with Section 7900) of Division 12 of the Family Code to oversee and monitor county child welfare agencies, children in foster care or receiving foster care assistance, and out-of-state placements, Section 10850.4, and paragraph (2).

(J)(i) Authorized staff who are employed by, or authorized staff of entities who are licensed by, the State Department of Social Services, as necessary to the performance of their duties related to resource family approval, and authorized staff who are employed by the State Department of Social Services as necessary to inspect, approve, or license, and monitor or investigate community care facilities or resource families, and to ensure that the standards of care and services provided in those facilities are adequate and appropriate, and to ascertain compliance with the rules and regulations to which the facilities are subject.

(ii) The confidential information shall remain confidential except for purposes of inspection, approval or licensing, or monitoring or investigation pursuant to Chapter 3 (commencing with Section 1500) and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code and Article 2 (commencing with Section 16519.5) of Chapter 5 of Part 4 of Division 9. The confidential information may also be used by the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and may not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Social Services determines that no further action will be taken in the matter. Except as otherwise provided in this subdivision, confidential information shall not contain the name of the minor.

(K) Members of children’s multidisciplinary teams, persons, or agencies providing treatment or supervision of the minor.

(L) A judge, commissioner, or other hearing officer assigned to a family law case with issues concerning custody or visitation, or both, involving the minor, and the following persons, if actively participating in the family law case: a family court mediator assigned to a case involving the minor pursuant to Article 1 (commencing with Section 3160) of Chapter 11 of Part 2 of Division 8 of the Family Code, a court-appointed evaluator or a person conducting a court-connected child custody evaluation, investigation, or assessment pursuant to Section 3111 or 3118 of the Family Code, and counsel appointed for the minor in the family law case pursuant to Section 3150 of the Family Code. Prior to allowing counsel appointed for the minor in the family law case to inspect the file, the court clerk may require counsel to provide a certified copy of the court order appointing him or her as the minor’s counsel.

(M) When acting within the scope of investigative duties of an active case, a statutorily authorized or court-appointed investigator who is conducting an investigation pursuant to Section 7663, 7851, or 9001 of the Family Code, or who is actively participating in a guardianship case involving a minor pursuant to Part 2 (commencing with Section 1500) of Division 4 of the Probate Code and acting within the scope of his or her duties in that case.

(N) A local child support agency for the purpose of establishing paternity and establishing and enforcing child support orders.

(O) Juvenile justice commissions as established under Section 225. The confidentiality provisions of Section 10850 shall apply to a juvenile justice commission and its members.

(P) The Department of Justice, to carry out its duties pursuant to Sections 290.008 and 290.08 of the Penal Code as the repository for sex offender registration and notification in California.

(Q) Any other person who may be designated by court order of the judge of the juvenile court upon filing a petition.

(R) A probation officer who is preparing a report pursuant to Section 1178 on behalf of a person who was in the custody of the Department of Corrections and Rehabilitation, Division of Juvenile Justice and who has petitioned the Board of Juvenile Hearings for an honorable discharge.

(2)(A) Notwithstanding any other law and subject to subparagraph (A) of paragraph (3), juvenile case files, except those relating to matters within the jurisdiction of the court pursuant to Section 601 or 602, that pertain to a deceased child who was within the jurisdiction of the juvenile court pursuant to Section 300, shall be released to the public pursuant to an order by the juvenile court after a petition has been filed and interested parties have been afforded an opportunity to file an objection. Any information relating to another child or which could identify another child, except for information about the

deceased, shall be redacted from the juvenile case file prior to release, unless a specific order is made by the juvenile court to the contrary. Except as provided in this paragraph, the presiding judge of the juvenile court may issue an order prohibiting or limiting access to the juvenile case file, or any portion thereof, of a deceased child only upon a showing by a preponderance of evidence that release of the juvenile case file or any portion thereof is detrimental to the safety, protection, or physical or emotional well-being of another child who is directly or indirectly connected to the juvenile case that is the subject of the petition.

(B) This paragraph represents a presumption in favor of the release of documents when a child is deceased unless the statutory reasons for confidentiality are shown to exist.

(C) If a child whose records are sought has died, and documents are sought pursuant to this paragraph, no weighing or balancing of the interests of those other than a child is permitted.

(D) A petition filed under this paragraph shall be served on interested parties by the petitioner, if the petitioner is in possession of their identity and address, and on the custodian of records. Upon receiving a petition, the custodian of records shall serve a copy of the request upon all interested parties that have not been served by the petitioner or on the interested parties served by the petitioner if the custodian of records possesses information, such as a more recent address, indicating that the service by the petitioner may have been ineffective.

(E) The custodian of records shall serve the petition within 10 calendar days of receipt. If any interested party, including the custodian of records, objects to the petition, the party shall file and serve the objection on the petitioning party no later than 15 calendar days after service of the petition.

(F) The petitioning party shall have 10 calendar days to file any reply. The juvenile court shall set the matter for hearing no more than 60 calendar days from the date the petition is served on the custodian of records. The court shall render its decision within 30 days of the hearing. The matter shall be decided solely upon the basis of the petition and supporting exhibits and declarations, if any, the objection and any supporting exhibits or declarations, if any, and the reply and any supporting declarations or exhibits thereto, and argument at hearing. The court may solely upon its own motion order the appearance of witnesses. If no objection is filed to the petition, the court shall review the petition and issue its decision within 10 calendar days of the final day for filing the objection. Any order of the court shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ.

(3) Access to juvenile case files pertaining to matters within the jurisdiction of the juvenile court pursuant to Section 300 shall be limited as follows:

(A) If a juvenile case file, or any portion thereof, is privileged or confidential pursuant to any other state law or federal law or regulation, the requirements of that state law

or federal law or regulation prohibiting or limiting release of the juvenile case file or any portions thereof shall prevail. Unless a person is listed in subparagraphs (A) to (P), inclusive, of paragraph (1) and is entitled to access under the other state law or federal law or regulation without a court order, all those seeking access, pursuant to other authorization, to portions of, or information relating to the contents of, juvenile case files protected under another state law or federal law or regulation, shall petition the juvenile court. The juvenile court may only release the portion of, or information relating to the contents of, juvenile case files protected by another state law or federal law or regulation if disclosure is not detrimental to the safety, protection, or physical or emotional well-being of a child who is directly or indirectly connected to the juvenile case that is the subject of the petition. This paragraph does not limit the ability of the juvenile court to carry out its duties in conducting juvenile court proceedings.

(B) Prior to the release of the juvenile case file or any portion thereof, the court shall afford due process, including a notice of and an opportunity to file an objection to the release of the record or report to all interested parties.

(4) A juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, may not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, a juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, may not be made as an attachment to any other documents without the prior approval of the presiding judge of the juvenile court, unless it is used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(5) Individuals listed in subparagraphs (A), (B), (C), (D), (E), (F), (H), (I), and (J) of paragraph (1) may also receive copies of the case file. For authorized staff of entities who are licensed by the State Department of Social Services, the confidential information shall be obtained through a child protective agency, as defined in subparagraph (H) of paragraph (1). In these circumstances, the requirements of paragraph (4) shall continue to apply to the information received.

(6) An individual other than a person described in subparagraphs (A) to (P), inclusive, of paragraph (1) who files a notice of appeal or petition for writ challenging a juvenile court order, or who is a respondent in that appeal or real party in interest in that writ proceeding, may, for purposes of that appeal or writ proceeding, inspect and copy any records in a juvenile case file to which the individual was previously granted access by the juvenile court pursuant to subparagraph (Q) of paragraph (1), including any records or portions thereof that are made a part of the appellate record. The requirements of paragraph (3) shall continue to apply to any other record, or a portion thereof, in the juvenile case file or made a part of the appellate record. The requirements of paragraph

(4) shall continue to apply to files received pursuant to this paragraph. The Judicial Council shall adopt rules to implement this paragraph.

(b)(1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality to promote more effective communication among juvenile courts, family courts, law enforcement agencies, and schools to ensure the rehabilitation of juvenile criminal offenders as well as to lessen the potential for drug use, violence, other forms of delinquency, and child abuse.

(2)(A) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school, kindergarten to grade 12, inclusive, has been found by a court of competent jurisdiction to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Section 290 of the Penal Code, assault or battery, larceny, vandalism, or graffiti shall be provided by the court, within seven days, to the superintendent of the school district of attendance. Written notice shall include only the offense found to have been committed by the minor and the disposition of the minor's case. This notice shall be expeditiously transmitted by the district superintendent to the principal at the school of attendance. The principal shall expeditiously disseminate the information to those counselors directly supervising or reporting on the behavior or progress of the minor. In addition, the principal shall disseminate the information to any teacher or administrator directly supervising or reporting on the behavior or progress of the minor whom the principal believes needs the information to work with the pupil in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability.

(B) Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose of rehabilitating the minor and protecting students and staff, and shall not be further disseminated by the teacher, counselor, or administrator, except insofar as communication with the juvenile, his or her parents or guardians, law enforcement personnel, and the juvenile's probation officer is necessary to effectuate the juvenile's rehabilitation or to protect students and staff.

(C) An intentional violation of the confidentiality provisions of this paragraph is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500).

(3) If a minor is removed from public school as a result of the court's finding described in subdivision (b), the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance, who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district, within the county, along with the name and mailing address of each district superintendent.

(d)(1) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: "Unlawful Dissemination Of This Information Is A Misdemeanor." Any information received from the court shall be kept in a separate confidential file at the school of attendance and shall be transferred to the minor's subsequent schools of attendance and maintained until the minor graduates from high school, is released from juvenile court jurisdiction, or reaches 18 years of age, whichever occurs first. After that time the confidential record shall be destroyed. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her parent or guardian shall have the right to make a written request to the principal of the school that the minor's school records be reviewed to ensure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred.

(2) Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit any notice or information required under subdivision (b).

(e) For purposes of this section, a "juvenile case file" means a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in that case or made available to the probation officer in making his or her report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer.

(f) The persons described in subparagraphs (A), (E), (F), (H), (K), (L), (M), and (N) of paragraph (1) of subdivision (a) include persons serving in a similar capacity for an Indian tribe, reservation, or tribal court when the case file involves a child who is a member of, or who is eligible for membership in, that tribe.

(g) A case file that is covered by, or included in, an order of the court sealing a record pursuant to Section 781 or 786 may not be inspected, except as specified by Section 781 or 786.

(Amended by Statutes of 2018, Chapter 992, Section 1. Effective January 1, 2019.)



Appendix B Sample Forms

Forms used in California in the Surrogate Parent program:

- Request for Surrogate Parent Volunteer: a sample form is made available online by the Los Angeles Unified School District at the link below.
<https://achieve.lausd.net/cms/lib08/CA01000043/Centricity/Domain/351/Request%20for%20a%20Surrogate%20Parent%20Form.pdf>
- Sacramento County Special Education Local Plan Area Surrogate Parent Agreement: see page 56
- Sacramento County Special Education Local Plan Area Notification of Surrogate Parent Authorization: see page 58

Superior Court of California Surrogate Parent Appointment Forms:

- Order Designating Educational Rights Holder (JV-535) - <https://www.courts.ca.gov/documents/jv535.pdf>
- Local Educational Agency Response to JV-535 - Appointment of Surrogate Parent (JV-536) - <https://www.courts.ca.gov/documents/jv536.pdf>

SACRAMENTO COUNTY

SPECIAL EDUCATION LOCAL PLAN AREA

SURROGATE PARENT AGREEMENT

This Surrogate Parent Agreement (“Agreement”) is made and entered into effective **<date here>**, between the Sacramento County SELPA and **<name of surrogate parent here>** with respect to the following recitals:

- A. District desires to fulfill its obligation to appoint a surrogate parent to represent a special education student to ensure that the student obtains a free and appropriate education under the Individuals with Disabilities Education Act (“IDEA”) and state law.
- B. Surrogate Parent has expressed a desire and willingness to act as the Student’s Surrogate Parent for educational purposes.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Appointment: SELPA hereby appoints Surrogate Parent to act as the surrogate parent for **<student name here>**, D.O.B. **<student’s date of birth here>**. Surrogate Parent agrees to act as the “Parent” and educational representative for Student in accordance with 34 Code of Federal Regulations Section 300.519, Education Code 56050, Government Code 7579.5, and other applicable provisions of state and federal law.
2. Representations: Surrogate Parent represents that he or she has no interest that conflicts with the interest of the Student and that Surrogate Parent is not an employee of any agency involved in the care, custody or education of Student. Surrogate Parent further agrees to act on behalf of Student and to advocate for the education of Student in all ways necessary to ensure that Student receives a free and appropriate public education.

Surrogate Parent agrees to meet with Student, as appropriate, and others and to review Student’s educational records to develop knowledge and understanding of Student’s disability and Student’s individual needs for special education and related services.

If at any time during the term of this Agreement, Surrogate Parent develops an interest which may conflict with the interests of Student or becomes an employee of an agency involved in the care, custody or education of Student, Surrogate Parent agrees to immediately notify the SELPA. Upon verification, the SELPA shall terminate this Agreement.

3. Training: Surrogate Parent acknowledges that the SELPA has provided training regarding Student's disability, the laws applicable to Surrogate Parent responsibilities, and the continuum of program placements and opportunities available in the Sacramento County SELPA.
4. Term: SELPA hereby appoints Surrogate Parent for a term of two (2) years.
5. Termination: Either party may terminate this Agreement for any reason upon thirty (30) days written notice to the other party.
6. No Assignment: Surrogate Parent agrees that this Agreement shall be a personal contract and shall not be assignable, in whole or in part, in any manner whatsoever.
7. Student Records: Surrogate Parent agrees to maintain all records of Student reviewed or maintained by Surrogate Parent in a confidential manner and agrees that, upon termination of this Agreement, all such records shall be returned to the Student's district of residence.

<surrogate parent's name here> <surrogate parent's signature here><date here>

Surrogate Parent (Print) Surrogate Parent (Signature) Date

<surrogate parent's address here> <surrogate parent's e-mail address here>

Address Email Address

<surrogate parent's telephone number here>

Telephone Number

<Sacramento Co. SELPA Name here><Sacramento Co. SELPA signature here><date here>

Sacramento County SELPA (Print) Sacramento County SELPA (Signature) Date

Special Education Local Plan Areas (SELPAs) Representing:
San Juan, Sacramento City, Elk Grove, Folsom Cordova and Sacramento County

NOTIFICATION OF SURROGATE PARENT AUTHORIZATION

In accordance with AB 1528 (Chapter 182, Statutes of 1990), and General Regulation Sections 300.514 of the *Code of Federal Regulations*, the Sacramento County SELPA shall ensure that the rights of the child are protected.

In compliance,

<Name of Surrogate Parent Here>

(Name of Surrogate)

has been appointed and has agreed to act as a surrogate parent for:

<Name of Child Here>

(Name of Child)

The appointed surrogate must represent the child in all matters relating to identification, assessment, instructional planning and development, educational placement, review and revision of the individualized education program, and provision of a free and appropriate education for the child.

<Name of Surrogate Parent Here> <Address Here> <Phone Here> <Date Here>

Surrogate Parent

Address

Phone

Date

<SELPA/District/Designee Here> Sacramento Co. SELPA <Phone Here> <Date Here>

SELPA/District/Designee

Phone

Date

Distribution: White - SELPA

Yellow - Surrogate

Pink - District



Appendix C

Directory of Special Education Local Plan Areas

The CDE website at <http://www.cde.ca.gov/sp/se/as/caselpas.asp> provides the names and locations of the special education local plan areas in California.

Appendix D

California Court-Appointed Special Advocates

In 1977 a Seattle Superior Court Judge named David Soukup was concerned about trying to make decisions on behalf of abused and neglected children without enough information. He conceived the idea of appointing community volunteers to speak up for the best interests of these children in court. He made a request for volunteers; 50 citizens responded, and that was the start of the Court Appointed Special Advocates (CASA) movement. Today there are thousands of advocates serving in California alone.

The mission of the California CASA Association is to enhance and strengthen CASA in California and support individual programs in their efforts to provide quality advocacy services to all abused and neglected children in the juvenile courts through the use of trained CASA volunteers. These volunteers build close relationships with and serve as one-on-one advocates for children in foster care. Over 40 CASA programs in California recruit and specially train these volunteers from the community, who are then appointed as advocates by a juvenile court.

For the most current information and details about the CASA program in your area, visit California CASA's website at <http://www.californiacasa.org>.

