

Educating Your Foster Child

Surrogate Parenting and Other Advocacy for Foster Parents

By Jan Kjelland

A good education is critical to every child's success. This is especially true for children who spend long periods of their childhood in foster care – and yet many enter adulthood without this important ingredient for success. Studies have shown that foster children do not get the attention and services they need to succeed from schools or the child welfare system. Teachers' attitudes can and do affect a youth's educational experience if they are not made aware of the special needs of children in foster care.

Studies have revealed alarming reasons to address this issue. For instance, 75% of foster children are working below grade level; over 35% are in special education; and as few as 15% enroll in college. Within two to four years after emancipating from the foster care system:

- 46% had not completed high school, compared to 84% of non-foster youth;
- 51% were unemployed;
- 40% had been on public assistance or incarcerated; and
- 25% had been homeless.

Foster Parents and Teachers Working Together

Foster parents often express feelings of frustration and weariness in working with schools. Teachers may also make requests of foster parents, unaware of the challenges encountered by foster families. However, with disturbing facts like the ones illustrated above, it's clear that foster parents and teachers need to work together to enhance the child's chances for success. One of the ways that foster parents and teachers can improve educational outcomes for foster youth is to know the facts and then identify the roadblocks that may hamper the child's chances for success.

Overcoming 'Alphabet Soup'

Between IDEA, IEPs, FAPE, IEE and others, foster parents may be inundated by all of this "alphabet soup." That needn't be the case if one understands the basics. The Individuals with Disabilities Education Act (IDEA) is a federal special education law that requires school districts to provide a free appropriate public education (FAPE) to eligible children with disabilities. FAPE refers to special education and related services, described in an Individualized Education Program (IEP) and provided to the child in the least restrictive environment (LRE).

IDEA also includes procedural safeguards and federal regulations. You will need to watch for those disabilities that are not as obvious, such as learning impairments, memory issues, speech problems, language problems, and other subtle signs of difficulties. With the reauthorized IDEA Act of 1997, parents and surrogate parents may look for signs of ADD/ADHD as well, which isn't always easy. In addition, look for other signs that may include your child having school difficulties, such as: delays in academic achievements; refusing to attend school; and behavioral issues at school and home.

Foster parents may disagree with the school's evaluation of the student. If that's the case, request (in writing) an independent educational evaluation (IEE) be conducted at the school's expense. The school may choose to either agree to this second evaluation or take the case to a due process hearing. Keep in mind that the meeting to determine eligibility of special education services must include the parent or surrogate parent and a team of qualified professionals. It often consists of the IEP team members. (It's a good idea to check the specific guidelines in your state regarding who the participants should be at this meeting.)

What is an IEP?

The IEP – or Individualized Education Plan -- is a written plan that will outline your child's needs, and it will demonstrate how the school plans to address those needs (as mandated by IDEA). The plan must be detailed and specific to the child in question. The IEP needs to be implemented in such a manner that will result in the child making meaningful educational progress.

It is important to remember that when you as the parent/surrogate parent sign the IEP; you are agreeing to everything that is stated in the IEP. As a result, if you want to add something at the time of the meeting, be sure that you initial the space next to the new proposal. Furthermore, if you disagree or are not sure of the IEP at the time of the meeting; feel free to take it home to think about it or to have a friend, relative, or other advocate look it over for input as well.

The IEP needs to include:

1. The child's present level of educational performance;
2. Measurable annual goals, including benchmarks or short-term objectives;
3. Special education and related services, aids, services and modifications;
4. Statement of transition services;
5. Whether or not the child qualifies for extended school year services; and
6. The recommended placement of the child.

You will receive a "prior notice," which is important to you and your child because it allows ample time to prepare for the IEP meeting in advance. This notice is to be sent "early enough to ensure that they "(parents)" will have an opportunity to schedule and attend the meeting at a mutually agreeable time and place."

What is a Surrogate Parent?

"Surrogate parent" is another term that's been used in this article. What is a surrogate parent? A little background is necessary first: All children with disabilities are entitled to a free and appropriate public education (FAPE) under state and federal special education laws. The IDEA statute specifically requires procedures to be in place when:

- "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."

These procedures need to include assigning an individual as a "surrogate." Regulations include allowing the parents of children with disabilities to actively participate in the child's education. Unfortunately, some children may have a disability that is not yet identified, or they do not have parents who can fill this important role. This leaves educational planning to the local school district or other agencies.

Federal special education law, IDEA, and state procedures require that an individual must be appointed to make decisions regarding the educational services these children will receive. While usually any advocate may request a referral for evaluation of special education services; it is only the parent or the surrogate parent that can consent to the evaluation, re-evaluation of the foster child and ultimately to the services that may be put in place. Since the parent or the surrogate parent is the key decision maker for all IDEA-related issues, it is critical that it's clear who the surrogate parent is. IDEA regulations define a parent as a:

1. "Natural or adoptive parent of the child;
2. Guardian, but not the state if the child is a ward of the state;
3. Person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare; or
4. A surrogate parent..."

After reviewing these definitions, you may conclude that "guardian" and "relative" caretakers or anyone with legal custody of a child (other than the state) have the same rights as a parent under IDEA. In some states, foster parents are considered the parent under the third definition and do not need to be appointed as surrogates. It would then be wise to get a court order to seek clarification and to further document this as a legal arrangement – should you choose to explore this avenue.

Additional Surrogate Advice

- ❖ *What Type of Child Requires a Surrogate Parent?* Children without a person fitting the first three definitions of a parent listed above will need a surrogate parent.
- ❖ *What Are the Costs Involved For me to be a Surrogate Parent?* A surrogate parent acts as the foster child's parent and makes decisions regarding the education of the child but does not incur responsibility for any of the financial costs or direct care of the child with disabilities.
- ❖ *Who Appoints a Surrogate Parent?* Federal law leaves the process of appointing a surrogate up to individual states. You will need to find out how your state appoints a surrogate when one is needed for a child in foster care. Some jurisdictions permit foster parents, child advocates, CASA's, and guardian ad litem to be appointed as surrogates, while others believe this is a conflict of interest. Federal law *is* clear that a surrogate parent cannot be an employee of the state education agency, the lead education agency, or any other agency that is involved in the education or care of the child. As a result, child welfare professionals (such as caseworkers) may not be appointed as the surrogate parent.
- ❖ *What are the Qualifications of a Surrogate Parent?* The list of qualifications includes, but is not limited to:
 1. Having an interest in developing the potential of young people with disabilities;
 2. Understanding that individuals with disabilities have the right to education that will instruct and support them to be as productive and independent as possible;
 3. Be willing to listen to the student, agency representatives, and school personnel and act in the best interests of the child;
 4. Possessing the knowledge and skills necessary to ensure that the child is adequately represented; and
 5. The parent needs to be at least 18 years of age and a resident of the state.

A surrogate parent does not have to be highly educated in a specific professional field. In fact, parents of other children with disabilities are often very effective surrogate parents. Since foster parents provide the primary care, they are in a position to contribute to decisions regarding the education of the child. The NFPA believes that, foster parents, whenever possible, should act as the surrogate parent for children in their care.

What are the Benefits to the Surrogate Parent? The student with a disability will have someone whose sole responsibility is to represent him in order to ensure that he receives a free, appropriate public education in the least restrictive environment (LRE).

How do I Become a Surrogate Parent? Contact your specific state. Each state may vary in their procedures for becoming a surrogate parent. Contact your State Department of Public Instruction for the information that you will need.

What Type of Training Will I Need? This will also vary depending on the state. In North Dakota, for example, school districts are responsible for providing training for educational surrogate parents to ensure that they have the necessary knowledge and skills to represent the student. Go to the Internet and look up the guidelines for each state under the State Department of Public Instruction or request a copy of the guidelines from your school.

What is an Advocate?

Another term you may run across is “advocate.” Basically, in the case of an education advocate for a foster child, this could be anyone in the child welfare system that is in a position to address the child’s needs. So while an advocate may be a parent or surrogate parent, an advocate may also be an attorney, caseworker, judge and others.

Being an advocate does not require special training. Many times, foster parents, for instance, are urged to seek as much training and assistance as possible regarding special education laws, including IDEA and how IEPs work.

An education advocate will want to help a foster child by doing the following (including):

- Create relationships with school staff (and others that may be helpful);
- Be viewed as persistent, yet flexible;
- Be committed to what is in the child’s best interests;
- Be willing to learn about reauthorization acts to IDEA or other bills;
- Be able to maintain records and document;

In summary, regardless if it’s serving as a foster parent, surrogate parent, etc., no one knows your child like you do. If you have a concern, don’t hesitate to seek advice from your agency social worker, other foster parents, the school, your child’s therapist, your doctor, and others. Then, get help as soon as you can. The sooner your child’s special needs are met, the faster he/she can achieve success in school – and that, after all, should be the goal of everyone involved.

Source: Adapted with permission from “Developing Relationships With Schools” by Jan Kjelland for the National Foster Parents Association. For more information about surrogate parenting training or workshops, contact the NFPA at 800-557-5238; info@NFPAINC.org. Jan Kjelland and her husband are foster parents with the Professional Association of Treatment Homes (PATH) in Jamestown, N.D. They reside in Valley City, N.D.