

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT 2004

IDEA 2004 requires that there are state and local procedures to protect the rights of a child whenever the parents of the child are not known, the school cannot, after reasonable efforts, locate the parents, or the child is a ward of the state.

The protections required by IDEA include the assignment of an individual who shall not be an employee of the state or local educational agency or any other agency that is involved in the education or care of the child, to act as a surrogate for the parents.

The term "Parent" defined under IDEA - a parent, a guardian, a person acting as a parent of a child, or a surrogate parent, *Note The term parent includes persons acting in the place of a parent, such as a grandmother or stepparent with whom a child lives, as well as persons who are legally responsible for a child's welfare.

A surrogate parent is unnecessary if there is a parent or person acting as a parent, including a foster parent available to make decisions about the child's involvement in the early intervention or special education systems.

A surrogate parent is necessary if the child is a ward of the state or the parent or person acting as the parent is unavailable to make decisions about the child's involvement in the early intervention or special education systems.

Surrogate parents shall be at least 18 yrs old, a resident of Nevada, have no interest that conflict with the child, have received

orientation and training and have knowledge and skills that ensure adequate representation of the child. The surrogate cannot be an employee of the public or private agency providing services to the child, i.e. teacher, administrator, service coordinator, social worker, etc.

Foster parents are considered "licensees" in Nevada who receive a stipend for care of children. Therefore, foster parents may be appointed as surrogates when the child is a ward of the state. An employee of an agency, institution or community based residential facility is not automatically the legal guardian of a child in residence even though legal custody rests with the public agency. These employees are not considered foster parents (or persons acting as parents) and may not serve as surrogate parents.

A surrogate parent may not be assigned to more than three (3) children, exceptions to the limit must be requested in writing and approved by the Nevada Department of Education.

The surrogate parent shall have the same rights as parents in the special education process and are required to maintain confidentiality standards.

Appropriately appointed surrogate parents cannot be held liable for decisions made in good faith regarding a students early intervention or special education needs.

For more information on this topic contact Nevada PEP or the Nevada Department of Education. <http://www.doe.nv.gov/SpecialEdResources/surrogate.pdf>