

**SURROGATE PARENT
PROCEDURAL GUIDELINES
AND
INFORMATION HANDBOOK**

DISTRICT HANDBOOK



September 2004

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RESOURCES

Forms Related to Surrogate Parent Process

Legislation Related to Surrogate Parents

The following "decision tree"/flowcharts are provided as a overview of the questions that must be addressed in the determination of the need for a surrogate parent appointments.



SURROGATE PARENT GUIDELINES

Overview

Recruitment:

Each school district in the Kern County Consortium SELPA is responsible for the identification of the Surrogate Parents that will be appointed by the district when the need arises.

Whenever there is discussion of the need for a surrogate parent, more recent changes in the law now allow, and encourage, the foster parent to be involved in the educational programs for child the in their home. The appointment of the foster parent as the surrogate may still only occur when the birth or adoptive parent no longer has educational rights or when they cannot be located. The child living in a foster home or licensed children's institution (group home) does not presume the parents rights are no longer valid and in place. As you read through this document, you will note in the process several points to determine when a surrogate or foster parent/ surrogate needs to be put into place.

Surrogate Parents for students enrolled in the Kern County Superintendent of Schools Office from Consortium member districts will be a district appointed individual whenever possible. The Kern County Superintendent of Schools Office Program Principal/Coordinator will be responsible for contacting the district representative to arrange the appointment. [The exception to this may be when an infant or toddler is being assessed - the KCSOS has identified a few individuals to act as surrogates for these children.]

Training:

The SELPA Director will be responsible of the training of the Surrogate Parents. Training will be offered two to three times a year. This is a one session, three-and-one-half to four hours training. Surrogate Parents are provided a certificate of completion and district will be notified of the completion of the training.

The district will be contacted before each scheduled training, to allow the designation of the individuals to be involved in the training. Each district will be responsible for its own guidelines/safeguards related the background information required for volunteers in its school program. There is a form recommended for use, the Surrogate Volunteer Application. This form will be requested by the SELPA Director prior to the training.

Forms:

Forms are reviewed in the Resources section of this Handbook with guidelines for completion. Forms are available for each district to use in the process of identification and appointment of the surrogates. These forms may be reproduced by the district on an as needed basis with the addition of the school district letterhead/title.

Referrals to Kern County Superintendent of Schools Office or any other agency, such as mental health will require the submission of the Parent Search Document if the student is in a foster home or LCI.

The parental status/educational rights status of all children ages birth until twenty-two must be clearly identified by the referring school district at the time of referral or the request for an interim placement in a Kern County Superintendent of Schools Office program or services, including assessment. This will include providing the necessary documentation.

When there are specific circumstances that make this not feasible, discussion will take place between the district of residence referring person and the Search and Serve Coordinator. If the first contact is made with the Search and Serve Office, the initial documentation may be appropriately obtained by the Search and Serve Coordinator. (Search results and signatures by the appropriate agency forms will be required; when the parent has appointed a representative, the appropriate form will be required as well.)

Students changing districts:

If a student with an existing Surrogate Parent assignment moves or is placed in a foster home outside his or her current placement or resident district, the student's new placement or and new district of residence will assume/assign a surrogate that is needed for the student. The former Surrogate Parent assignment will be discontinued. By mutual agreement, the sending and receiving district may continue a Surrogate Parent assignment, if the Surrogate also agrees.

If the student is enrolled in a Kern County Superintendent of Schools Office program, the Kern County Superintendent of Schools Office Program Coordinator will notify the new resident district of the move and of the need for a Surrogate Parent assignment.

SURROGATE PARENT DEFINITION

A Surrogate Parent is an adult appointed by the School District to represent a student whenever the student does not have parental representation and has been referred for, or is currently receiving services from Special Education.

The surrogate parent that is appointed by the district to represent the interests of the child may also be a foster parent if the birth or adoptive parent cannot be located or if their rights have been removed by the courts.

PARENT DEFINITION

A parent is defined as the following:

- * The birth or adoptive parent of a child
- * Any person having legal custody of a child

- * Any adult pupil for whom they have appointed no guardian or conservator (18-22 years)
- * A person "acting" as the student's parent at the request of the birth or adoptive parent (educational representative) (Surrogate Form 3)
- * Any person appointed as a Surrogate Parent by a School District to represent a student being referred for or receiving Special Education programs and services.

ADMINISTRATION OF THE PROGRAM

The Kern County Consortium SELPA will be responsible for the following administrative tasks:

- * Staff development of School District and County Office personnel regarding the mandate of Surrogate Parent requirements;
- * Providing consultation services upon request to School Districts or agencies including training of agency personnel
- * Developing a training program for Surrogate Parents
- * Issuing a Certificate of Completion to candidates who successfully complete the training and pass a post test examination
- * Provide consultation services upon request to individuals acting as Surrogate Parents
- * Notifying and asking placing agencies in Kern County to indicate the parent's location and educational rights status using Notification of Placement of Individual with Exceptional Needs Licensed Children's Institution or Foster Family Home (Surrogate Form 2)
- * Developing forms related to the Surrogate Parent procedures for Consortium District members use
- * Maintaining a master list of individuals qualified to act as Surrogate Parents for each School District/Area Center

The individual school districts/County Office will be responsible for the following administrative tasks:

- * Recruiting and appointing Surrogate Parents
- * Determining student status and assigning a Surrogate Parents for School District and County Office enrolled students (Surrogate Form 2)
- * Surrogate Parent Volunteer Application Processing (Surrogate Form 4 a and b).
- * Monitoring the performance of Surrogate Parents (Surrogate Form 7).

WHEN TO APPOINT A SURROGATE PARENT

A Surrogate Parent will be appointed under the following circumstances:

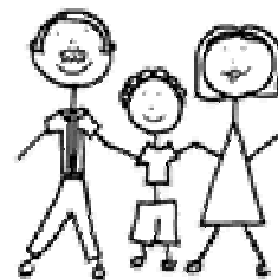
- * The birth or adoptive parent cannot be found or the court has removed the parent's educational rights to represent the student
- * If a student is a dependent or ward of the Court and the birth or adoptive parent cannot be located, the specific information provided by the agency representative will be deemed as documentation that the parental right to make educational decisions have been removed or limited by the court
- * If parental education rights have been specifically removed by the court, the student shall be assigned a Surrogate Parent. It should be noted that because physical custody has been removed from a birth or adoptive parent there is no presumption that educational rights have been removed.

Note: If reasonable efforts have failed to locate the parent or to obtain parent status notification from the placing agency, an interim Surrogate Parent may be appointed.

This may be necessary to facilitate timely placements, IEP review and/or parent consent for Special Education assessment. On-going efforts to determine the parental rights status for the student should, however, continue.

Foster parents may be appointed as the Surrogate for the child if there is no parent to be located, educational rights have been removed by the court, there is no conflict of interest and the foster parent agrees to act as the surrogate for the time that the child is in the home. It is recommended that the district appoint the foster parent in a formal manner as they would the traditional surrogate. A foster parent does not have to complete the training to be a surrogate, but may participate if they want to do so.

Remember: If one parent or legal guardian retains the right to make educational decisions on the student's behalf, and the parent or legal guardian is willing to represent the student, no Surrogate Parent will be assigned.



TRAINING SURROGATE PARENTS

The Kern County Consortium SELPA will conduct regular sessions and ongoing consultation with potential Surrogate Parents in the following areas:

- * Laws and education code related to Surrogate Parents
- * Cultural Sensitivity
- * Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) Processes
- * Special education programs and services
 - * Team Process/Team Building
 - * Surrogate Parent Evaluation

A Certificate of Completion will be issued to each individual who successfully completes the training session and is able to pass a training post test examination.

Additional training will be offered periodically to those who have been appointed as surrogate parents. They also receive all the parent staff development flyers and brochures.

DETERMINING STUDENT STATUS

The School Districts will be responsible for determining the student's status. The basis for making a decision to appoint a Surrogate Parent will be determined by the absence of any adult who has the officially recognized right to be the educational representative of that student.

Each School District should attempt to locate parents of students who retain educational rights. If a parent cannot be located, they will deem that a reasonable search has been conducted when the School District has sent at least one certified letter to the last known address and has made at least one follow-up phone call.

The status of parental rights for students already enrolled in School District or Kern County Superintendent of Schools Office special education programs will be determined by the Special Education Program Director/Coordinator. A "new" incoming student's status will be determined by the School District of Residence or the Search and Serve Office.

Class lists may be used to identify the following four groups of students who do not require a Surrogate Parent:

1. All Special Education students who reside with a parent
2. All Special Education students who have a parent or guardian known to the school personnel although they do not reside with the student
3. All voluntary placements in Group Homes, Licensed Children's Institutions (LCI), Foster Family Homes (FFH) or mental health facility when a parent retains educational rights
4. All non-conserved students who are eighteen years or older (If conserved, the conservator may have been given rights, as specified by the Court.)

Records of the Special Education students who do not fall within the four categories should be further analyzed to determine the need for Surrogate Parent appointment. Information that needs to be addressed is: parent(s) name, student date of birth, residential placement status, dependency status, status of parent educational rights and location of parent. In all cases, the placing agency shall be contacted and the response for verification of status shall be documented.

If new/transfer student records are incomplete, the placing agency should be notified that the student cannot be placed in a Special Education program until the following information has been received:

- * Copy of current Individualized Education Program (IEP) or the Individualized Family Service Plan (IFSP)
- * Designation/documentation of status of parent(s)
- * Identity of the individual responsible for representing the educational interests of the student
- * Current psychological and other pertinent assessment reports

A student may not be placed in an educational program other than home instruction until the above information has been provided by the placing agency. It is necessary to identify the individual that has the educational rights for the student to approve the services and program placement being offered to the student.

If there is partial information, an interim surrogate may be appointed while additional information is being sought.

Note: The placing agency is responsible for notifying the School District before placing a child ages birth through 21 with exceptional needs in a Licensed Children's Institution (LCI) or Foster Family Home (FFH) within the School District boundaries. This step must be taken prior to placement to determine that the requirements in the written Individualized Education Program (IEP) or the Individualized Family Service Plan (IFSP) can be met.

SELECTING SURROGATE PARENTS

Persons selected as Surrogate Parents shall:

- * Show that they do not have any conflict of interest
- * Have no interest that conflicts with the interest of the student he or she represents
- * Have knowledge and skills that ensure adequate representation of the student
- * Not be an employee of a public or private agency involved in the education or care of the student

Conflict of Interest needs to be addressed and school Districts should consider the following factors when determining if there is a conflict of interest:

- * Is the person employed by a School District or any public agency involved in the education or care of the student?
- * Does the person hold a position that might restrict or bias his/her ability to represent the student's educational needs?
- * Does the person hold a position that might subject him/her to administrative influence or reprimand for acting as the student's educational representative?
- * Does the person have interests that might restrict or bias his or her ability to advocate for all of the services required to ensure a Free Appropriate Public Education (FAPE) for an individual with exceptional needs?

Social workers, probation officers, employees of any public agencies or group homes and Licensed Children's Institutions (LCI) generally may not act as Surrogate Parents. Districts may use the form entitled, "Surrogate Parent Volunteer Application" to assist in making a determination if there is a conflict of interest (Surrogate Form 4 a and b). There have been situations in which a court specifically appointed an agency person as the surrogate parent. In this situation, after verification that this has taken place, that person will be the surrogate. However, this has not been from a court in Kern County.

Foster parents may be appointed as Surrogate Parents if there is not a conflict of interest and the birth or adoptive parents no longer have educational rights. It is still the district's responsibility to determine if there is a conflict of interest and to determine if the foster parent may be appointed to act as the surrogate.

RECRUITING SURROGATE PARENTS

Each School District has the responsibility to recruit individuals to act as Surrogate Parents. The Special Education Director/Coordinator or contact person will send a list of potential Surrogate Parent volunteers to the Kern County Consortium SELPA.

The Kern County Consortium SELPA will maintain an updated master list of trained or potential Surrogate Parent for each School District. Surrogate Parents essentially "belong" to the School District that did the recruiting. The Surrogate Parent will be appointed for both School District and County Office enrolled students. The utilization of the Surrogate Parent by another School District will occur only by mutual agreement of both School District Administrators and the individual Surrogate Parent Volunteer.

When a child moves from the district, the appointment may continue in the new district only with the agreement of the surrogate parent and the new district of residence reappointing that individual.

The following resources are recommended for locating potential Surrogate Parents:

- * Local school parent associations
- * Retired Teachers Associations
- * Service groups such as Rotary, Lions, Kiwanis, Elks
- * Big Brother, Big Sisters, Foster Grandparents
- * American Association of University Women (AAUW)
- * Parent/Foster parents of other Special Education students

ROLE OF SURROGATE PARENTS

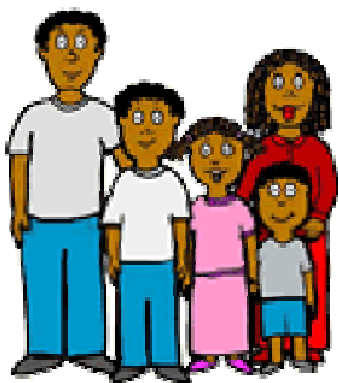
The Surrogate Parent's role on the Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) team is to represent the rights of the student in all educational matters related to the provision of a Free Appropriate Public Education (FAPE). All rights that the birth or adoptive parent in the special education process fall to the surrogate parent.

LIABILITY

Surrogate Parents are held harmless when acting in their official capacity except in acts or omissions found to have been wanton, reckless, or malicious (*Government Code 7579.5[g]*).

ACCESS TO STUDENT RECORDS

The Surrogate Parent volunteer will be able to review the student's Special Education file at the school site or the School District Offices in the presence of a School District employee. They will be given a copy of the student's current Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP); and be given copies of any reports completed as a result of an assessment. At the end of their term, the School District will request that all copies of IEP/IFSP and other records be returned to the School District.



TERM OF SURROGATE PARENT VOLUNTEER APPOINTMENT

A Surrogate Parent volunteer's term of appointment will continue until there is reason to discontinue the assignment. The School District will be responsible for monitoring the Surrogate Parent and determining if the term of appointment should be renewed.

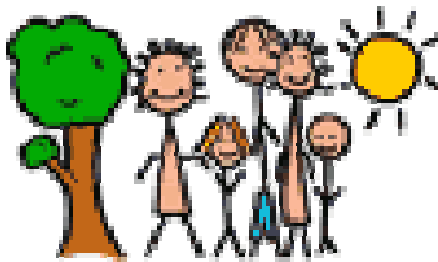
If the student is enrolled in a program operated by the Kern County Superintendent of Schools Office (KCSOS), the assignment of the surrogate may have been by the district of residence. This appointment may also have been made by the KCSOS personnel in the situation involving infants and toddlers, or as an interim appointment when a transfer student is involved. The monitoring in that case would be the responsibility of the KCSOS personnel.

A Surrogate Parent appointment will be automatically terminated if the student moves from the district, or if one of the following conditions apply:

- * Conflict of interest
- * Student is no longer eligible for Special Education
- * Surrogate Parent does not perform duties adequately, as per Surrogate Parent Evaluation (Surrogate Form 7)
- * Parent is located or educational rights are returned to the parent by the court.
- * The student reaches the age of eighteen
- * When a foster parent has been appointed, when the child moves from that foster home.

If the student reaches age eighteen and the IEP team feels the student is not competent to represent himself or herself, the team should not proceed with the meeting without a parent or Surrogate Parent being involved. The appropriate agency should be contacted to initiate the conservatorship process.

LEGISLATION

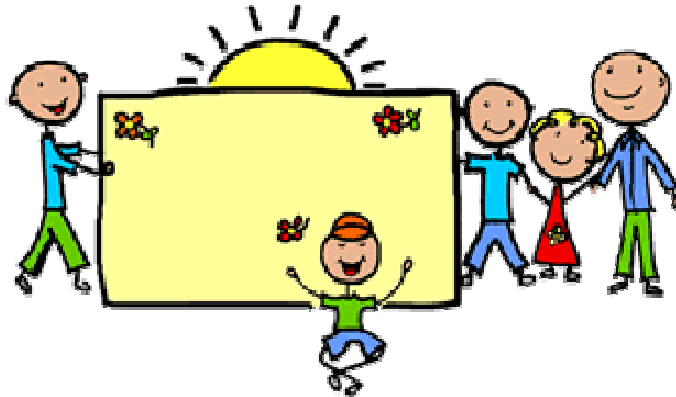


**Selected sections of California Education Code,
the Welfare and Institutions Code, the
Government Code and the California Code of Regulations
pertaining to Surrogate Parents and Foster Parents**

FORMS

Forms have been developed for use in the identification, assignment and evaluation of surrogate parents for the use by the members of the Kern County Consortium SELPA. There are only seven forms that might be used (listed on previous page). Black line masters are available from the Consortium Office for the district to reproduce with district letterhead or logo. These forms are designated by their use - "Surrogate #" rather than a letter/number assignment. It is anticipated that there will be few times that this process is necessary for a district.

The following is intended as a review of the forms and documentation needed for the procedures in the identification for the need for the assignment of a surrogate parent, and the completion process for each of the forms.



SURROGATE PARENT FORMS

- Form 1. Parental Status Data and Search Documentation
- Form 2. Notification of Placement of Individual with Exceptional Needs in Licensed Children's Institutions (LCI) or Foster Family Homes (FFH)
- Form 3. Appointment/Acceptance of Surrogate Parent
- Form 4. Surrogate Parent Volunteer Application
Surrogate Parent Volunteer Agreement/Appointment
- Form 6. Surrogate Parent Evaluation

EDUCATION FORMS

- 1. Notification of Referral - SE: R03 and SE: R03s/SE: H02 and SE: H02s
- 2. Assessment Plan - SE: R04 and SE: R04s/SE: H04 and SE: H04s
- 3. Release of Information - SE: R26 and SE: R26s /SE: H05 a-b and SE: H05 (a-b) s
- 4. Notification of IEP meeting - SE: R05 and SE: R5s Notification of IFSP meeting - SE: H06 (a-h) and SE: H06 (a-h) s
- 5. Individualized Education Program - SE: R06 through SE: R20 and SE: R6s through SE: 20s (pages dependent on student needs)
Individualized Family Service Plan - SE: H07 (a-h) and SE: H07 (a-h) S
- 6. Parent Rights - short version and expanded version (SE: R03 and H: 3 and H: 3s and H:13 and H: 13s)

Note: "H" forms refer to those used by the Kern Early Start Services Program

Surrogate 1: Parental Status Data And Search Documentation

This is the basic form that should be completed prior to any decision to appoint a surrogate for a student. This could be done at the time of the initial referral, at the time the student enrolls in a school setting and previous special education services have been identified, or at the time the student is placed in a foster home and identified as having received special education services in the previous district.

† Student's full name and birthdate and the district of residence are entered

† The foster parent is asked for information and usually provides the name of the social worker and placing agency information, including phone numbers for contact.

† A phone call is made to the social worker to determine the status of the birth or adoptive parent rights and if there is still contact with the student. A means of contacting the parent is obtained and the center of the form completed based on the information that is received. In a best practice situation, the social worker or representative of the placing agency will have contacted the school district initially, provided this information and any other records that may be needed to initiate services for this student. However, in the day to day practice that is most common, the school representative will have to initiate this contact because a foster parent is enrolling the student in the school setting without all of the needed data.

† Based on the conversation and the information received, one of three decisions is made:

1) A Surrogate Parent is not needed - the parent's have contact with the student, an address and phone has been provided and contact may be made with them for assessment permissions, IEPs, etc. related to the special education process.

2) A Surrogate Parent is needed based on the information - no parent access is possible although the parental rights have not been removed by the courts or access is so sporadic that the student would not receive needed services if processes were held until contact could be established.

3) There is a need to do additional search procedures to locate the parents. In this situation, if the student has been identified as a "transfer" with an existing IEP or IFSP, an interim Surrogate Parent may be appointed pending determination of status. This is a limited term situation that ends as soon as a parent contact is made. Good practice is that the final determination is made within the thirty day interim placement that has been made for the student.

† The remainder of the form is a "sign off" for the individual that determined the parental status for educational rights.

†Note: If the student has been initially referred to the Kern County Superintendent of Schools Office (KCSOS), the Search and Serve Coordinator will have the responsibility to complete this form and forward it with the initial assignment of the referral to district or Kern County Superintendent of Schools Office personnel. If the student is being referred from a district to the KCSOS, the district personnel will be responsible for the completion of this form to accompany the referral.

Surrogate 2: Notification of Placement of Individual with Exceptional Needs in a Licensed Children's Institution or Foster Family Home

This form is the verification from the placing agency. The best practice would be to have this information given to you prior to the student's move into the school district; however, common practice is that the student will arrive before the information related to placement. This form may be completed as much as possible from the phone conversation you have with the social worker, mailed for review, completion and signature and returned to the district as soon as possible. When it is returned it is placed in the student's file.

If the student moves from one foster home to another within the SELPA, unless there is a change in the parental status, it would not be necessary to obtain a new form from the social worker/placing agency. If the student is returned to the parent's home from a foster home, that information needs to be noted in the student file and the surrogate process and assignment is discontinued.

† Enter your name, school district and the person's name to whom it is being sent.

† Enter the student's full name, birth date and other information that is known.

† Enter the remainder of the information as known from the conversation that was held with the social worker that allowed the special education process to be undertaken in a timely manner. If there is being done before the student is in the district, it may be left for the social worker to complete the remainder for the form.

Note: If the student is initially referred to the Kern County Superintendent of Schools Office, the Search and Serve Coordinator will have the responsibility to complete this form and forward it to the social worker and then forward a copy to the district and/or KCSOS Program Coordinator when it has been returned. If a student requires the assignment of a Surrogate Parent, the district to residence will be the first source/contact for the assignment in most situations.

Surrogate 3: Appointment of Education Representative

This form is intended to provide the opportunity for a parent who retains educational rights to appoint an individual to act on their behalf for educational matters related to special education identification and services. This is done in the situation in which a parent lives out of county or state, the parent has limited contact, the parent prefers to have the grandmother or care giver act as the parent. The person appointed cannot be a school representative or employee, an employee of the agency which placed the student, or someone who would have a conflict in acting in the interests of the student. A foster parent may be appointed by the parent as an educational representative.

† This form is usually completed by the parent after the school representative explain this option. It requires the signature of the parent and the signatures of the person accepting the role.

† It remains in effect until one of the conditions stated in the center of the form is present.

† A copy of this form must be attached to each IEP notice, assessment plan, IEP/IFSP or other form/permission that initiates or involves a special education process for that student.

Surrogate 4: Surrogate Parent Volunteer Application

This form is intended for use when the district/KCSOS initially identified an individual that is interested in acting as a Surrogate Parent. It is intended to provide some basic information to the district in a consistent manner, and to obtain certification that there is no conflict of interest for the individual.

This form will be required to accompany any individual sent for training and certification as a surrogate.

† Completion is self explanatory.

Surrogate 5: Surrogate Parent Volunteer Agreement/Appointment

When it has been determined that a Surrogate Parent is needed for a student, a surrogate is selected and there should be an agreement signed. This provides some commitment on the part of the surrogate, clarifies role and provides some level of district protection in having this clarity consistently for each surrogate.

An agreement should be signed for each student individually. A copy should be retained in the district or KCSOS files - this is dependent on who makes the appointment. A copy should be placed in the student confidential file.

Each district should have in place the person that will be responsible for the appointment of Surrogate Parents and the monitoring of their activities. This may be the Special Education Director/Coordinator or Supervisor. It should be an administrative role that has this responsibility.

In the Kern County Superintendent of Schools Office, the assignment of Surrogate Parents is to be done by Director level individuals. The Program Coordinator is responsible for the on-going notification to the Surrogate Parent of assessment plans, IEP/IFSP meetings, etc.

This appointment would remain in effect for one year or until either the district or the Surrogate Parent identifies one of the reasons for the discontinuance of the appointment. The surrogate moving from the district that made the appointment, or the student moving will discontinue the assignment.

It is recommended that this appointment be renewed each year. This provides an opportunity to verify continued attendance in the district by the surrogate, and a brief conversational update of status and situation for both surrogate and student by the administrator.

In most cases, if a student that has a Surrogate Parent moves from one district to another, the new district of residence may appoint a new Surrogate Parent. In some cases, the surrogate may continue to work with that student but that decision is made after discussion between the two districts and with the Surrogate Parent. The distance of the move may be a factor that would lead to a new surrogate being assigned.

† Completion of this form is self explanatory.

† A copy of this form must be attached to each IEP notice, assessment plan, IEP/IFSP or other form/permission that initiates or involves a special education process for that student.

Surrogate 6: Volunteer Evaluation

This form is intended to provide a formalized manner of reviewing the surrogate. It may be used by the administrator, with the teacher or in whatever manner the administrator of the district working with the Surrogate Parent program feels is most appropriate. It is NOT for inclusion in a student file. It is intended to be shared with the volunteer.

† Completion is self explanatory.

**Surrogate Parent Rights
and
Responsibilities**

**The following pages have been taken from the
Surrogate Parent training materials used by
the Kern County Consortium SELPA**