



## **HOW CAN A PENNSYLVANIA FOSTER PARENT HELP A CHILD IN CARE GET NEEDED SPECIAL EDUCATION HELP?**

**IMPORTANT:** ELC's publications are intended to give you a general idea of the law. However, each situation is different. If, after reading our publications, you have questions about how the law applies to your particular situation, contact us or an attorney of your choice.

### **Can a child with a disability get special help to learn?**

Federal and Pennsylvania laws require that children with disabilities, from birth to when they graduate or finish the school year in which they turn 21, can get the help they need to learn. This help is called special education. Whenever possible, students with disabilities should be taught what all students are learning in regular classrooms - with the extra help they need. Children with disabilities can also get speech, physical and occupational, therapy, psychological supports, school health services, and other supports to help them make reasonable progress in academic and behavioral areas.

### **Who usually makes decisions for a child in the special education system?**

Educating a child with a disability requires teamwork between the family and the school. For the protections in the law to work effectively, every child with a disability or who is thought to have a disability must have a "parent" who can act on her behalf. It is the "parent" to whom the school must send notice of meetings and proposals; who attends meetings and makes decisions about what is best for the child; and who can use mediation or the special education hearing system to resolve problems.

## **What happens when a child is living with foster parents?**

The birth or adoptive parent can make special education decisions for a child in foster care - but only if the parent is active in the process. If a birth or adoptive parent is not responding to notices from the school, is not attending special education meetings, or tells the child welfare agency that she is not interested in playing this role, the foster parent can step in and perform the job. The foster parent is also the "parent" if no one knows where the birth family is living, a court has terminated the parents' rights, or the birth or adoptive parents have died.

## **What is a surrogate parent?**

A surrogate parent is a person who has been appointed by a judge or a school to act as the parent for a child who does not have a birth or adoptive parent or a foster parent to participate in the special education progress on her behalf. However, if the child has a foster parent, the foster parent is considered the child's parent for the special education system - and an alternative surrogate parent should not be appointed for the child.

## **Can a court decide that someone other than the foster parent should make special education decisions for a child in care?**

Yes. Even when a child is living with a foster parent, and that foster parent is presumed to be the parent for education decision making purposes, a judge can intervene and decide that another individual - for example, an aunt who cannot care for the child, but who is willing and able to be the special education decision maker - is the best choice for the job. In that case the judge will issue a written court order that identifies the specific person who can act as the child's "parent" in special education matters.

**What is the role of the foster parent when the birth or adoptive parent is the child's special education decision maker?**

Regardless of whether the foster parent is the education decision maker, it is the foster parent who works hands-on with the child on her homework and who knows how the child is adjusting in school on a day-by-day basis. Even if the birth or adoptive parent or someone appointed by the judge is making special education decisions for the child, that person may welcome the foster parent's input and participation. In any case, it can't hurt to ask!

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