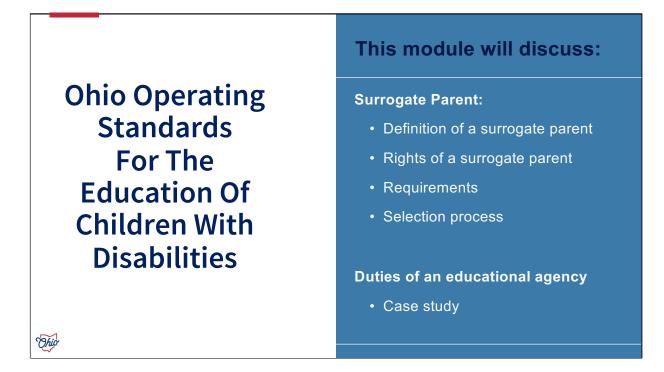


Welcome to this training session on educational agency's responsibility in the surrogate parent process.



You can request a copy of the PowerPoint with notes at the end of the training.

This professional development program is presented in sections: District roles and responsibilities.



Ohio Administrative Code (O.A.C) 3301-51-05 (E) [Procedural safeguards – Surrogate Parent].



Ohio defines - Parent as-

- 1. A biological or adoptive parent of a child (**Exception:** unless biological or adoptive parent lacks legal authority to make educational decision for child);
- 2. A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not if the child is a ward of the State);
- 3. 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
- 4. A surrogate parent who has been appointed by the school district or the court.

If a judicial decree or order identifies a specific person or persons 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."

If parents have shared custody, **only one parent needs to consent** wherever signatures are required; Ex.: change of placement, initial services and informed consent to evaluate.

When there is a grandparent power of attorney (POA) and the parents are not available

(i.e., incarcerated), is the grandparent permitted to sign all paperwork as the guardian or should the district assign a surrogate parent? If the grandparent is the guardian, then the grandparent would be the parent as defined in the federal and state regulation...as "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."



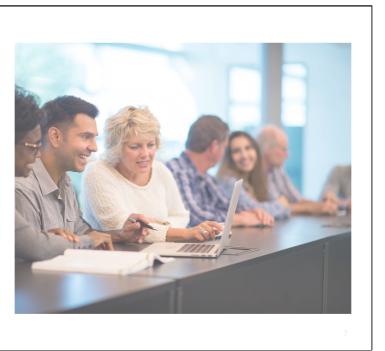
In Ohio, the Operating Standards does not include "foster parent" in the definition of parent, Ohio Administrative Code (O.A.C) 3301-51-01 (B)(44) [Applicability or requirements and definitions – Parent].

However, the superintendent of the district of residence may appoint a foster parent as a surrogate parent, if the foster parent has completed surrogate training criteria and meets other requirements as described in Ohio's Operating Standards.

Does a student in foster care need to have a surrogate appointed if biological parents have not had educational rights severed? No, if the biological parent still has educational rights, the biological parent will represent the child.

A Surrogate Parent Is...

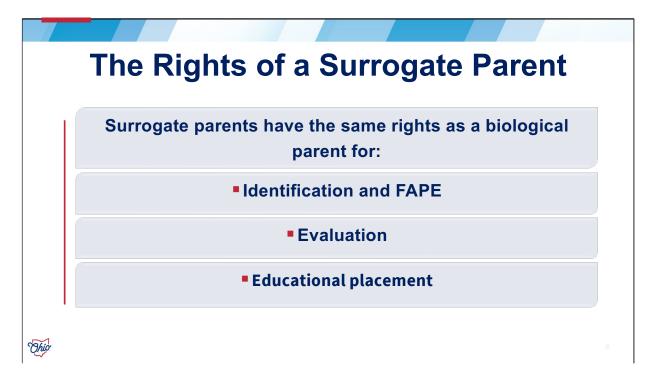
An individual who has been appointed in accordance with the Individuals with Disabilities Education Improvement Act and the Operating Standards by the superintendent of the district of residence or the court, to act as the parent of the child in all matters relating to the identification, evaluation and educational placement of the child and the provision of a free appropriate public education to the child.



A Surrogate parent is:

Ohio

An individual who has been appointed in accordance with the Individuals with Disabilities Education Improvement Act (IDEA) and the Ohio Operating Standards by the district of residence superintendent or the court, to represent the child in all matters relating to the identification, evaluation and educational placement of the child and the provision of free appropriate public education (FAPE) to the child.



The surrogate parent may represent the child in all matters relating to-

- (1) The identification
- (2) The provision of FAPE to the child
- (3) The evaluation, and educational placement of the child; and

The surrogate parent makes educational decisions regarding the needs, services, evaluation and placement of a child with a disability.

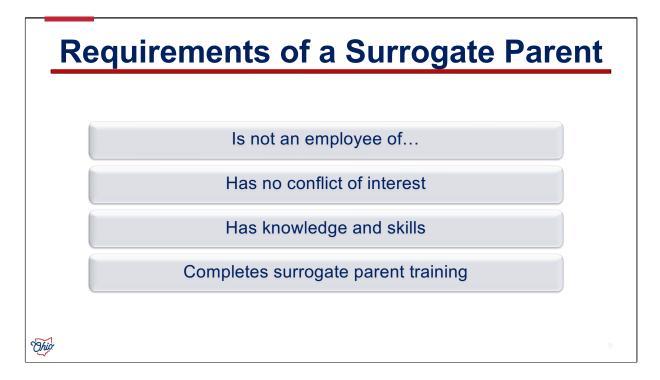
The surrogate parent has the right to participate just as a biological parent in all matters relating to the following:

- 1. Request an evaluation of the student and decisions related to the provision of a free appropriate public education of the student;
- 2. The identification of the student as a student with a disability;
- 3. Provide informed consent for educational evaluations,
- 4. Informed consent before the initial provision of special education and related services to the student as appropriate;
- 5. Serve as an IEP team member;
- 6. Work with the IEP team to determine eligibility for special education and related

services;

- 7. Attend evaluation and IEP meetings, and all other meetings pertaining to the student's special education and related services needs;
- 8. Agree or disagree with educational placement decisions;
- 9. Sign documents as the "parent;"
- 10. Review the student's educational records;
- 11. Observe the student's classroom; and
- 12. Visit a school placement.

13. Request IEP meetings to address any issues/mediation/facilitation/complaint/Due Process



What is required if a person wants to serve as a surrogate parent?

The school district of residence must ensure that a person selected as a surrogate parent:

(i) Is not an employee of the Ohio Department of Education (the Department), the educational agency, 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;

(iii) Has knowledge and skills that ensure adequate representation of the child; and (iv) Has successfully completed the Department surrogate parent training prior to acting on behalf of the child.

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:

- (i) Is not an employee of the Department, the school district, or any other agency that is involved in the education or care of the child;
- (ii) Has successfully completed training prescribed by the Department prior to acting on behalf of the child; and

(iii) Is not an employee of the school district solely because the person is paid by the school district to serve as a surrogate parent.

All surrogate parents must have successfully completed the training prescribed by the Ohio Department of Education prior to acting on behalf of the child.

The training can be obtained at <u>Surrogate Parent Training (ohiosurrogateparent.org</u>).

Responsibilities of a Surrogate Parent	Request an evaluation of the child
	Provide informed consent
	Work with the evaluation team to determine eligibility
	Provide informed consent before the initial provision of special education and related services
	Serve as an IEP team member
Ding	Attend evaluation and IEP meetings

The surrogate parent has the same rights as the biological parent in the special education decision process.

The surrogate parent has the right to participate just as a biological parent in all matters relating to the following:

- 1. Request an evaluation, including a functional behavior assessment (FBA) of the children (decisions related to the provision of a free appropriate public education of the child);
- 2. The identification of a child as a child with a disability;
- 3. Provide informed consent for educational evaluations,
- 4. Informed consent before the initial provision of special education and related services, as appropriate, for each child;
- 5. Serve as an IEP team member;
- 6. Work with the IEP team to determine eligibility for special education and related services;
- 7. Attend evaluation and IEP meetings, and all other meetings pertaining to the child's special education and related services needs;
- 8. Request to reconvene IEP team if issues arise;
- 9. Agree or disagree with educational placement decisions, IEPs, and ETRs;

- 10. Sign educational documents as the "parent;"
- 11. Review and request the child's educational records;
- 12. Observe the child's classroom; and
- 13. Visit a school placement.

	Request to reconvene the IEP team
Responsibilities	Agree or disagree with the provision of FAPE, educational placement decisions, IEPs and evaluation team reports
of a Surrogate	Sign educational documents as the "parent"
Parent continued	Review and request the child's educational records
	Observe the child's classroom
Thio	Visit a school placement

The surrogate parent has the same rights as the biological parent in the special education decision process.

The surrogate parent has the right to participate just as a biological parent in all matters relating to the following:

- 1. Request an evaluation, including a functional behavior assessment (FBA) of the children (decisions related to the provision of a free appropriate public education of the child);
- 2. The identification of a child as a child with a disability;
- 3. Provide informed consent for educational evaluations,
- 4. Informed consent before the initial provision of special education and related services, as appropriate, for each child;
- 5. Serve as an IEP team member;
- 6. Work with the IEP team to determine eligibility for special education and related services;
- 7. Attend evaluation and IEP meetings, and all other meetings pertaining to the child's special education and related services needs;
- 8. Request to reconvene IEP team if issues arise;
- 9. Agree or disagree with educational placement decisions, IEPs, and ETRs;

- 10. Sign educational documents as the "parent;"
- 11. Review and request the child's educational records;
- 12. Observe the child's classroom; and
- 13. Visit a school placement.

Not a Surrogate Parent's Responsibility

Signing the child's Medicaid paperwork

Providing copies of the IEP to the foster parent

Surrogate parents do not sign Medicaid paperwork. Providing a copy of the IEP to the foster parent is the responsibility of the educational agency.

Surrogate Parent Appointment

The appointment of a surrogate parent is established to ensure that children with special education needs have the same protections as all other children eligible for special education services.

Ohio



The appointment of a surrogate parent was established to ensure that children with special education needs have the same protections as all other children eligible for special education services.

A school district of residence must create a surrogate parent selection procedure that includes how to:

- 1. Determine whether a child needs a surrogate parent. A surrogate parent must be appointed when the child is in permanent –not temporary custody of child protective services, a parent cannot be located or when a parent's educational decision-making rights have been terminated by the court.
- 2. Assign a surrogate parent to the child. The regional State Support Team has a list of surrogate parents who are available to serve the district.

A rare occurrence is a biological parent may voluntarily consent to have a surrogate parent appointed. Example: If a child's only identifiable parent is incarcerated. Student's who have reached the age of majority (18) may also request a surrogate parent to work on their behalf.



Whenever parents have retained legal rights to make educational decisions and can be reached by the educational agency, the educational agency must treat the parent as the educational decision maker.

The educational agency cannot appoint a surrogate parent for a child when there is another person in the child's life who qualifies as a parent under IDEA and whose rights to make educational decisions for the child have not been terminated.

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 is considered a parent under IDEA.

3301-51-05 (E)(11)(c) Procedures for assignment of a surrogate parent:

(i) Whenever parents have retained legal rights to make educational decisions and can be contacted by the educational agency to act as the parent on behalf of their

child in the special education process, the educational agency must treat the parent as the educational decision maker. The educational agency cannot appoint a surrogate parent for a child when there is another person in the child's life who qualifies as a parent under IDEA and whose rights to make educational decisions for the child have not been terminated.

(ii) For a child who is eligible or thought to be eligible for special education services and requires the appointment of a surrogate parent, the school district of residence must ensure that a surrogate parent is appointed to represent the child in all matters related to identification, evaluation, placement, and the provision of a free appropriate public education according to the procedures in 34 C.F.R. 300.519.

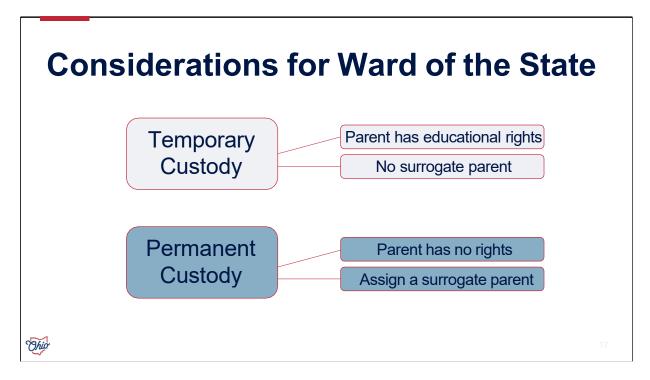


If a judicial decree or order identifies a specific person or persons to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent."

If parents have shared custody, **only one parent needs to consent** wherever signatures are required; Ex.: change of placement, initial services.

A guardian ad litem (GAL) works for a court and may be court appointed surrogate parents. Districts must verify the training completion.

When a child is in the custody of children services and there are multiple parties involved, the case worker may request that the GAL serve as the surrogate parent. "If a judicial decree or order identifies a specific person or persons 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." If the court did not specify an individual to act on behalf of the student for educational decisions, the surrogate decision remains with the DOR.



If children services have temporary custody and the parent retained educational rights, **the district cannot appoint a surrogate parent unless a biological parent voluntarily gave consent to have a surrogate parent appointed**. When in doubt, the district should contact the case worker (court order) to determine if the parent retained educational rights while the child is in temporary custody of the state.

If Children Services has permanent custody and the parental rights have been terminated, typically the educational rights were terminated as well.

Children Services workers are not guardians and can not fill the "parent's" role as defined by federal and state definition of a parent.

Typically, a guardian ad litem (GAL) is for court purposes and not for IDEA unless they have completed the surrogate training and are appointed.

If in doubt, always verify with the case worker or court

documents District should show documented attempts made to

contact the parent Attempts made refers to:

•Parent - calls, emails and home visits •Others - case worker, GAL and courts

Children who are in temporary custody may still need a surrogate parent **IF** the parental educational rights have been revoked in the court order.

3301-51-05 (E)(11)(c) Procedures for assignment of a surrogate parent:

(i) Whenever parents have retained legal rights to make educational decisions and can be contacted by the educational agency to act as the parent on behalf of their child in the special education process, the educational agency must treat the parent as the educational decision maker. The educational agency cannot appoint a surrogate parent for a child when there is another person in the child's life who qualifies as a parent under IDEA and whose rights to make educational decisions for the child have not been terminated.

(ii)For a child who is eligible or thought to be eligible for special education services and requires the appointment of a surrogate parent, the school district of residence must ensure that a surrogate parent is appointed to represent the child in all matters related to identification, evaluation, placement, and the provision of a free appropriate public education according to the procedures in 34 C.F.R. 300.519.

When to Appointment a Surrogate Parent



Parent cannot be located

The child is a ward of the state

Unaccompanied homeless youth

Ohio

Each educational agency must ensure that the rights of a child are protected when:

1. No parent can be identified;

(ex. The biological mother cannot be found, and the birth certificate does not name a father)

2. The school district, after reasonable efforts, cannot locate a parent;

3. The child is a ward of the state under the laws of Ohio (Children Services has temporary or permanent custody. Permanent custody is when the parental rights have been terminated. When in doubt the district should contact the case worker (court order) to determine if the parent retained educational rights while the child is in temporary custody of the state); or

4. The child is an unaccompanied homeless youth as defined in Section 725 (6) of the McKinney-Vento Homeless Assistance Act of 2001.

Rare occurrence is a biological parent may voluntarily consent to have a surrogate parent appointed. Example: If a child's only identifiable parent is incarcerated.



If a surrogate parent is appointed by a judge overseeing the child's case, upon the request of the judge, the school district of residence will confirm that the person appointed meets the requirements including completing the surrogate parent training.

Whenever parents have retained legal rights to make educational decisions and can be contacted by the educational agency to act as the parent on behalf of their child in the special education process, the educational agency must treat the parent as the educational decision maker. The educational agency cannot appoint a surrogate parent for a child when there is another person in the child's life who qualifies as a parent under IDEA and whose rights to make educational decisions for the child have not been terminated.



create a procedure for identifying and appointing a surrogate parent.

Superintendent or designee identifies children in need and appoints individuals to this role

Ohio

The appointment of a surrogate parent was established to ensure that children with special education needs have the same protections as all other children eligible for special education services.

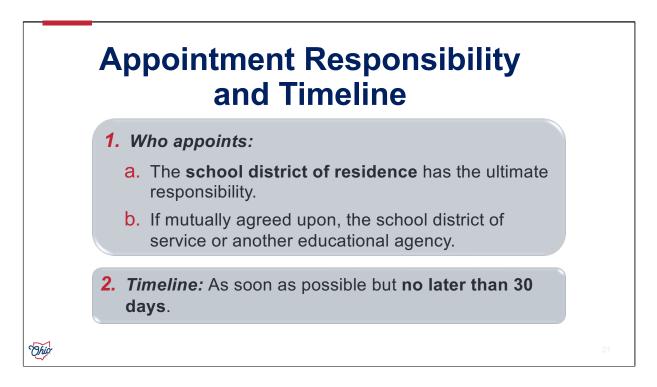
A school district of residence must create a surrogate parent selection process that includes how to:

- 1. Determine whether a child needs a surrogate parent; and
- 2. Assign a surrogate parent to the child.

A surrogate parent is required to be appointed **by the district of residence superintendent** under the following circumstances:

Superintendent or designee identifies children in need of surrogate parents and assigns individuals to this role.

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 the requirements for selecting a surrogate parent.



The school district of residence maintains the ultimate responsibility for the assignment of a surrogate parent for all children with disabilities residing in the district. However, the school district of attendance, County Board of Developmental Disabilities or another educational agency may appoint the surrogate parent if mutually agreed upon.

A surrogate parent shall be assigned as soon as possible but no later than 30 days from the date that it is determined that the child needs the surrogate.

The appointment of a surrogate parent was established to ensure that children with special education needs have the same protections as all other children eligible for special education services.

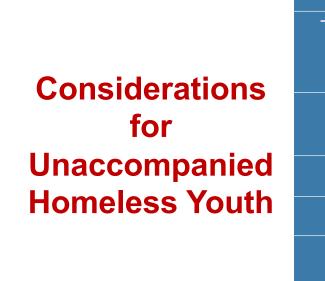
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In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to the requirements for selecting a surrogate parent.



Who Can Be Selected Temporary surrogate parents such as appropriate staff from:

Emergency/transitional shelters

Independent living programs

Street outreach program

May be appointed until a surrogate parent who meets all requirements can be appointed.

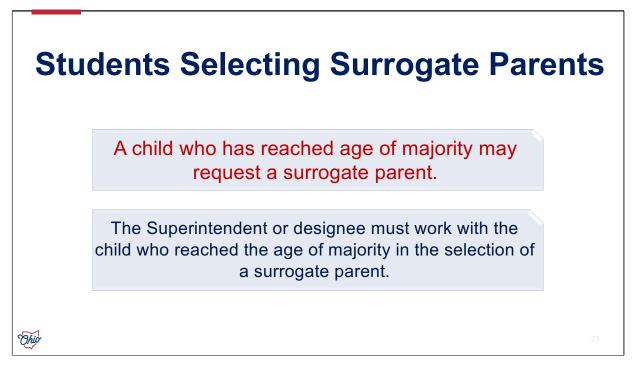
Appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents with out meeting these requirements until a surrogate parent who meets all requirements can be appointed.

Temporary means within 30 days.

Ohio

What can a temporary surrogate do? The temporary surrogate parent would be able to perform the duties of a regular surrogate parent. Think of the temporary surrogate parent in terms of an emergency representative. For example, the public defendant who attended the preliminary hearing may not be the public defendant assigned to the case.

Can temporary surrogates sign documents on behalf of the student? Yes. It may be a parental consent for evaluation or an initial IEP. The district should work diligently to provide a permanent surrogate quickly. A temporary surrogate should not be the norm for this population of students.



A school district must inform students who reached age of majority of their right to select a surrogate parent to help them with their educational decisions.

A school district must create a procedure to ensure that students who reached age of majority can obtain a surrogate parent, if they need one.

Special note:

Transfer of Rights at Age of Majority is a notice provided to the parent and the child by the child's 17th birthday, informing them of the transfer of parent's rights to the child on his/her 18th birthday.

***If the child is mentally capable of making decisions, at 18, the child can request a surrogate parent.

Duties of the Educational Agency

- ✓ Determine the need for a surrogate
- ✓ Ensure the surrogate is trained
- ✓ Assign a surrogate
- ✓ Review the term of appointment
- End the appointment upon request
- Ensure surrogate has knowledge and skills
- ✓ Enforce the employment restrictions
- ✓ Safeguard the child from conflict of interest



Duties of the educational agency:

- 1. Create a procedure for determining whether a child needs a surrogate parent;
- 2. Refer surrogate parent for training;
- 3. Assignment of an individual to act as a surrogate for the parents;
- 4. Review the term of appointment of the surrogate parent;
- 5. End the appointment at either the request of the surrogate or the district;
- 6. Making sure the surrogate completes training as prescribed by the Department;
- The surrogate parent has some knowledge and skills that are necessary for the adequate representation of the child (especially in the child's mode of communication);
- Enforce the employment restrictions (the Department, or any agency that is involved in the care or education of the child cannot serve as a surrogate parent); and
- 9. Safeguarding the child from personal or professional interests that conflicts with the interests of the child the surrogate represents.

Reminder: The Individualized Education Program (IEP) team, includes the surrogate parent and the team determine what is necessary for the child with a disability to receive FAPE.

Child Find Duties: Each district shall ensure all children from birth through age 21 with disabilities who are homeless children, wards of the state and highly mobile children, including migrant children residing within the district, regardless of the severity of their disability, and who are in need of special education and related services are identified, located, and evaluated as required by the Individuals with Disabilities Education Act (IDEA).

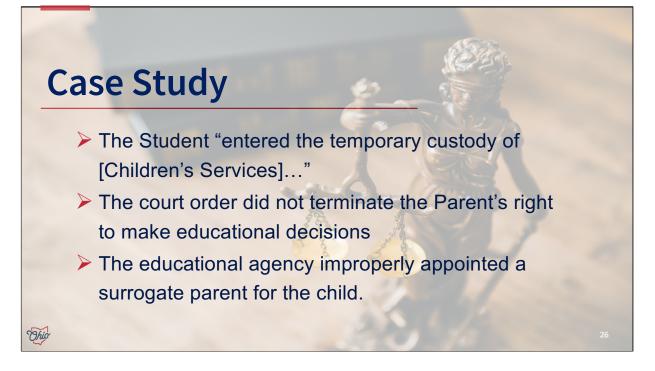
Partnering with the Surrogate Paren	t
Introducing the evaluation and the IEP team members	
Providing contact information of teachers	
Providing and explaining the parent/student's handbook and procedural safeguards	
Being supportive	
Thip	

Introduce the surrogate parent to the school and evaluation/IEP team members.

Provide contact information. Initial contact can easily be made through email.

Help the surrogate parent become familiar with the school's student handbook, rules, disciplinary procedures

Keep in mind the surrogate parent may not be familiar with all the education jargons/acronyms. The surrogate parent makes educational decisions regarding the needs, services, evaluation and placement of a child with a disability.



The state complaint excerpt: The Student "entered the temporary custody of [Children's Services]" per a court order that did not terminate the Parent's right to make educational decisions regarding the Student. The District improperly appointed a surrogate parent for the Student.

Occurrences of the improper surrogate parent appointments:

- The surrogate parent was aware of the Student's "past history of disciplinary incidents and her multiple psychiatric hospitalizations and private residential treatment facility history, as they needed to in order to understand [the Student's] needs."
- The surrogate parent signed the Student's IEP to consent to a change of educational placement for the Student during an IEP team meeting on the same day the surrogate parent was appointed.
- The District did not provide the Parent with a copy of the Student's revised IEP, the Student's behavior intervention plan (BIP), the Student's IEP progress reports, or report cards.
- The Coordinator sent the surrogate parent "the completed IEP with changes notated at the meeting, Behavior Plan documents, meeting notes, the ETR planning form and Consent form" and informed the SP the ETR planning and consent forms "require[d]" surrogate parent's signature so that the District could "begin the academic achievement testing agreed upon at the IEP team meeting..."
- The Parent did not receive the same documentation and information as the

surrogate parent.

"The court order did not specifically terminate the Parent's educational or parental rights or identify another person to act as the parent for educational purposes. The Parent was willing and able to assume her responsibilities under IDEA and attempted to act as the Parent prior to the appointment of the first surrogate parent by requesting an IEP team meeting. The Parent also disagreed with the District's appointment of the surrogate parents and attempted to act as the Parent after the appointment of the surrogate parents."

"The Parent, as the biological parent was willing and able to assume her responsibilities and should have been the Parent for the purposes IDEA. Because the District appointed the surrogate parents and then treated them as the "Parent" for IDEA purposes, the District is not in compliance..."

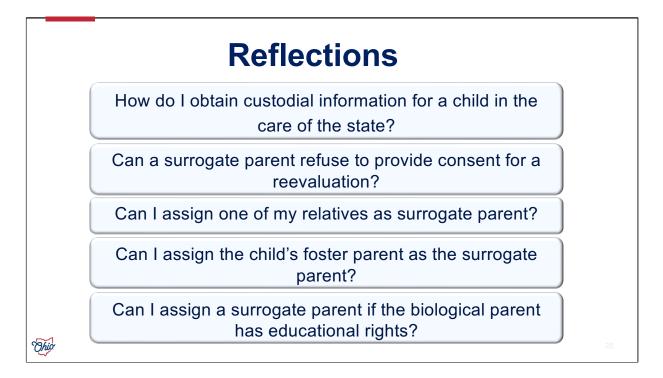
Surrogate Parent Liability

Not liable in civil damages unless deliberately engaged in unacceptable or improper behavior.

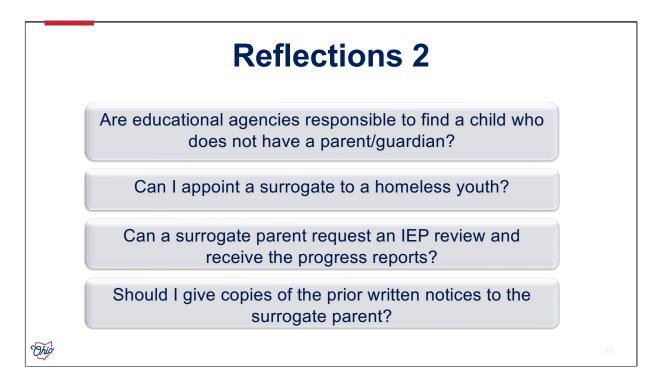
Ohio Revised Code Section 3323.051 states that neither the surrogate parent, nor the authority that assigned the surrogate, shall be liable in civil damages, except for acts that constitute willful or wanton misconduct.

The surrogate should always conduct himself or herself in an ethical, responsible and respectful manner.

The surrogate parent must also be careful not to share personally identifiable information about the child with parties that do not have the right to the information.



Let's take some time now to discuss the following questions.



Review the questions based on the information reviewed in the previous slides.

Questions and Answers

Q: Can I pay the surrogate parents?

A: The school can pay the surrogate parents for their time and mileage, since the surrogate parent is not considered an employee of the school district. [Ohio Administrative Code 3301-51-05(E)(5)].

Q: Can a provider contracted by the school serve as a surrogate parent? A: No, it poses a conflict of interest.

Q: Who signs the Medicaid forms?

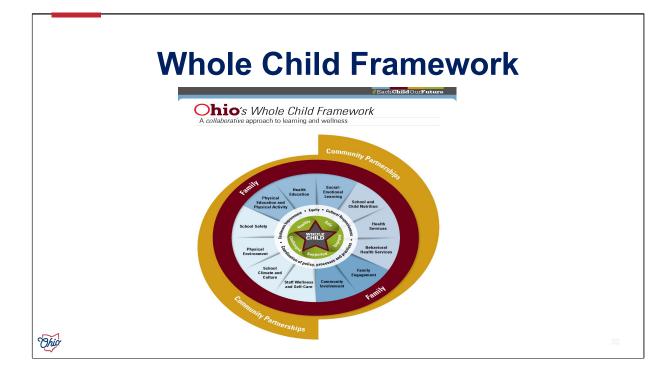
A: Contact the child's case worker.

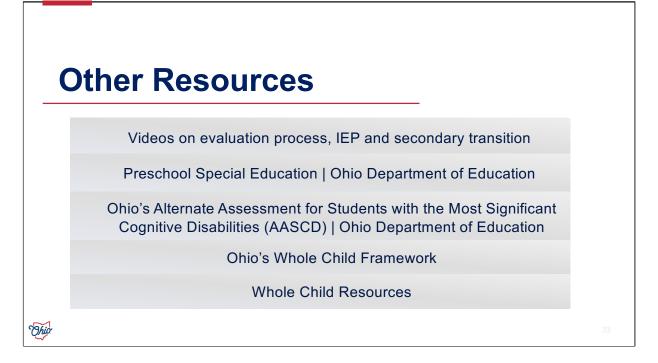
Q: Can the surrogate parent make medical decisions for the child? A: No, contact the child's case worker.

Q: Who is responsible for providing the IEP, ETR, progress reports to the foster parent?

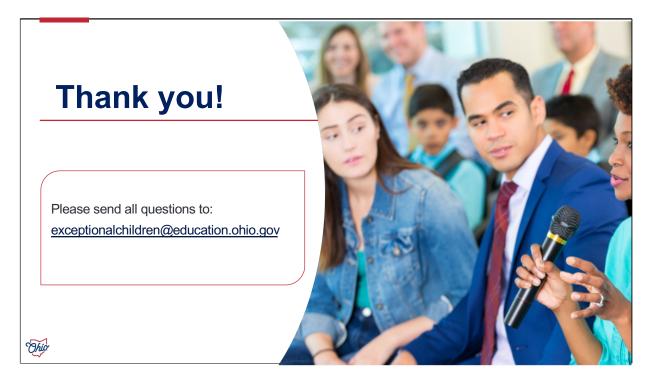
A: The school district.







Each resource can be located on education.ohio.gov website.



Thank you for coming today, and again thank you for your commitment to the education of our children.