

Infant Toddler Program (ITP) Surrogate Parent Training Questions & Answers

Roles and Responsibilities

- 1. Is the assigning of a “surrogate parent” a practice for ITP only?**

Under IDEA Part C, ITP assigns a surrogate parent solely for the purpose of protecting the rights of the child under the Infant Toddler Program and making early intervention service decisions for the child. The surrogate parent does not have the legal authority to act on behalf of the child outside of ITP.

Other programs may assign a surrogate parent for various reasons; however, their purpose in doing so may have a different emphasis than ITP.
- 2. What is the role of the service coordinator in assigning a surrogate parent?**

The service coordinator gathers information to identify the need for a surrogate parent. If a need is identified, the service coordinator must work with their supervisor and the CFS case worker (if appropriate) in the decision to appoint a surrogate parent. The service coordinator must also ensure their supervisor and the CFS case worker are involved with the decision to end the surrogate parent assignment. Service coordinators are responsible for the following tasks (refer to the Surrogate Parent Policy in the ITP eManual):

 - a) Meet with supervisor to identify a need for the surrogate parent assignment
 - b) If a child is involved in CFS, the service coordinator must work with the CFS case worker to identify any potential surrogate parents
 - c) Complete the Surrogate Parent Determination Process Form with supervisor
 - d) Ensure the surrogate parent information is recorded in ITPKIDS, and notify the MDT of surrogate parent assignment
 - e) Follow procedures outlined in the Surrogate Parent Policy for ending the assignment of a surrogate parent when indicated
- 3. Should ITP supervisors go on home visits for cases where a surrogate parent assignment is considered or a surrogate parent is appointed?**

It is not required for the ITP supervisor to go on a home visit with these cases unless a need arises for the supervisor to be present. This should be decided on a case-by-case basis.

4. What documents are surrogate parents allowed to sign?

The surrogate parent assumes the same rights and responsibilities under ITP as a biological or adoptive parent, including signing all required documentation needing parent's signature for IDEA Part C. This can include, but is not limited to:

- Consent forms for screening, evaluation, and early intervention services (as well as the ability to decline any service)
- Individualized Family Service Plan (IFSP), including IFSP addendums
- Consent prior to disclosure or use of personally identifiable information
- Privacy forms
- Mediation agreements; complaint resolution procedure documents

NOTE: Insurance bills the biological or adoptive parents. Only the biological or adoptive parent signs the financial resources form, so in this case the financial resources form is not required. ITP does not bill a surrogate parent's insurance.

5. Who completes and signs ITP's financial resources form when a child is in foster care? Who is the responsible party?

Even when a child is in the custody of DHW, the biological or adoptive parent is still financially responsible, and only the parent can sign ITP's financial resources form. If the child is in the custody of DHW, ITP still holds the intake and IFSP meetings with the biological or adoptive parent. For ITP to be able to bill insurance the parent must sign (or parent can decline).

Since the biological or adoptive parents are the only entities that can sign the financial resources form, if their whereabouts are known, or their legal rights have not been terminated, no one else has the legal authority to sign the financial resources form.

ITP – CFS Coordination

6. Who should ITP contact if they cannot get in touch with a child's CFS worker? Is there a centralized person to contact?

CFS does not have a designated centralized contact person in each region. As a result, contact should be made with the CFS worker first, then the supervisor. ITP can locate a CFS worker's supervisor by accessing the Organizational Chart on the DHW InfoNet.

The Organizational Chart is accessed by going to the home page of the InfoNet and clicking on *Org Charts* in the *Helpful Links* box. (If you do not have access to the InfoNet or SharePoint, check with your supervisor.)

7. What is the case transfer process to different CFS workers in CFS, and at what points in time does this occur?

This process varies depending on the specific region and field office. For information specific to your area, please contact your local Child Welfare office for more information.

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| 8. Is there a way for CFS to communicate with ITP when the CFS worker changes? | CFS regularly updates a phone contact list and sends the list to CFS staff. This list can be sent to designated ITP staff, as well. We encourage collaboration to happen in local offices between both programs. CFS staff can establish a designated contact person in each office for ITP staff to communicate with when changes occur. ITP staff can contact the supervisor if unable to contact a CFS worker. |
| 9. When sharing information between ITP and CFS, what does the term “need to know” basis mean? | When different Department programs have a common client, staff may share information on a “need to know” basis according to Department rules. CFS and ITP can share information about the child and family to enable other program staff to work effectively with the client. Information shared outside the Department will require a release of information form signed by the family. |
| 10. Can ITP get a copy of the CFS service plan or alternative care plan from CFS? | No. CFS and ITP can discuss issues if specifically tied to ITP services, however, CFS cannot provide a copy of the CFS service plan or alternative care plan due to other confidential services not related to ITP.

Parents can choose to share the information with ITP. |
| 11. Are CFS workers also receiving training to correspond with training received by service coordinators at ITP? | Yes. As a follow-up to trainings provided to ITP staff and Child Welfare leadership in each hub, ITP is working to identify how the training will be provided to Child Welfare staff in collaboration with ITP. |

Database

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| 12. Does CFS have access to ITPKIDS? | Not at this time due to resource limitation and a “need to know” basis. |
| 13. What is iCARE? | iCARE is CFS’s information system that captures child protection and child adoption case information. The Department records Medicaid eligibility for these cases in iCARE as well. |
| 14. Can ITP have access to iCARE? | Not at this time due to resource limitation and a “need to know” basis. |

Parent Contact & Consent

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| 15. What “exceptions” are made when a parent is in prison and not responding to ITP’s attempts to contact? In the past ITP has been directed to close the case. | The biological or adoptive parent is always presumed to be the parent for making decisions for a child unless those rights have been legally terminated, or transferred to another person. If parental rights have not been terminated, and the biological or adoptive parent’s whereabouts are known (in this case, prison) ITP must obtain any required IDEA Part C signatures from the |
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Would we now work with CFS to assign a surrogate rather than close the case?

biological or adoptive parents.

ITP services are voluntary. ITP must make reasonable efforts to contact the parent in jail. ITP can contact the child's CFS worker, the Department of Corrections, or contact the last known jail to help identify where the parent was relocated.

If ITP locates the parent and they don't respond to attempts to contact, follow the case closure policy. If ITP is not able to locate parent, refer to the Surrogate Parent Policy to assign a surrogate parent.

16. If ITP does not agree with a decision made by the biological or adoptive parent, should they move to one of the other persons that IDEA Part C identifies in the definition of parent, sort of like a "hierarchy"?

If the biological or adoptive parent is available, IDEA Part C makes it very clear that they make all Part C decisions for their child. ITP cannot identify someone else to act as the child's parent if they do not agree with decisions made by the biological or adoptive parent.

In addition, the list of people who are outlined in the "definition of parent" in IDEA Part C was not intended to be used as a "hierarchy".

17. A child is living with the grandparent and the parent. The parent works a lot and asks ITP to meet with the grandparent instead to sign the IFSP. Would we be able to do this per the "individual acting in place of" policy, or would we need to consult our supervisor first?

According to the IDEA Part C definition of parent, when more than one party is qualified to act as the child's parent, the biological or adoptive parent are always presumed to be the parent for purposes of making educational or early intervention decisions for a child, unless those rights have been legally terminated or modified.

In this case, every attempt should be made to include the parent in the signing of the IFSP. This may mean arranging to meet outside of the parent's work schedule.

18. Child currently has a surrogate parent appointed by ITP to act as the "parent" on behalf of the child. The biological parents come into the picture and have made contact with ITP on behalf of their child. Who should be responsible for providing consent?

Moving forward, the biological parents would take over responsibility for any consent, for their child. According to the IDEA Part C definition of parent, when more than one party is qualified to act as the child's parent, the biological or adoptive parent must be presumed to be the parent unless the biological or adoptive parents do not have legal authority to make educational or early intervention decisions for the child. With the child's biological parent back in the picture, the need for a surrogate parent assignment ends. Refer to the Surrogate Parent Policy to end the assignment of a surrogate parent.

19. If a parent designation changes, do I need to obtain consent from the newly designated parent.

Yes. If a parent designation changes for a child, consent from the newly designated parent is required for any new actions requiring consent.

20. In the above situation, the IFSP is current, does ITP need to go back and have all new consents signed by the surrogate parent?

No. ITP does not need to obtain new signatures on consents already signed, but moving forward the surrogate parent signs any new consent.

21. When ending a surrogate parent assignment because a parent has been identified, or changing a surrogate parent assignment, is the service coordinator required to go over the procedural safeguards with the parent or new surrogate parent?

Yes, procedural safeguards must be reviewed with the biological or adoptive parent (or new surrogate parent) so that they are apprised of their rights as a parent. Previously signed consents that are still active should also be reviewed with the biological or adoptive parent (or new surrogate parent), as they also have the right to decline services. Moving forward, the biological or adoptive parent (or new surrogate parent) would take over responsibility for any new consent required for the child.

Forms that should be reviewed include, but are not limited to:

- Consent forms for screening, evaluation, and early intervention services (as well as the ability to decline any service)
- Individualized Family Service Plan (IFSP), including IFSP addendums
- Consent prior to disclosure or use of personally identifiable information
- Notice of Privacy Practice forms
- Mediation agreements; complaint resolution procedure document
- Financial resources form (biological or adoptive parent only)

Procedure – Assignment of Surrogate Parent

22. Do service coordinators need to complete a Surrogate Parent Process Determination Form if a child was assigned a surrogate parent before this policy is in place?

No. ITP does not need to go back and complete a Surrogate Parent Process Determination Form for those children who were previously assigned a surrogate parent, but service coordinators need to complete this form moving forward.

23. When a child is in foster care, but parental rights have not been terminated with the biological or adoptive, does a surrogate parent need to be assigned?

No. The biological or adoptive parents are always presumed to be the parent for purposes of making decisions for a child unless those rights have been legally terminated or modified. ITP must obtain any required IDEA Part C signatures from the biological or adoptive parent.

24. If a child has been in foster care for over a year, then the parents whereabouts

ITP and CFS must collaborate to identify the need for a surrogate, as there may be an individual in the child's life who meets the definition of parent under IDEA Part C, such as a legal guardian

<p>become unknown, do we assign a surrogate parent?</p>	<p>or an individual who is legally responsible for the child. If no one is identified as the parent, then proceed to assign a surrogate parent. Not every child who is in foster care needs a surrogate, however, this situation falls under “parent’s whereabouts unknown”.</p>
<p>25. What should we do if there is a disagreement between CFS and ITP regarding the assignment of a surrogate parent?</p>	<p>If there is a disagreement about the assignment of a surrogate parent, begin with collaboration between ITP and CFS. CFS is the lead entity for making decisions regarding the well-being of the child, and should be aware of ITP’s Surrogate Policy. According to the Deputy Attorney General (DAG), if the child is in the custody of the Department (CFS), CFS has ultimate information, and has decision-making authority for a ward of the state. ITP can appoint, but they should take into account the information and recommendations from CFS.</p> <p>If there is a disagreement regarding the assignment of a surrogate parent, bring the situation to the CFS and ITP supervisors’ attention.</p>
<p>26. If the biological or adoptive parent cannot be located after reasonable attempts, should ITP close the child’s case or assign a surrogate parent?</p>	<p>ITP should work to identify a surrogate parent for the child. If no surrogate parent can be identified, the child’s case would be closed.</p>
<p>27. Can ITP assign a surrogate parent if it is reported that a child’s biological parent is incarcerated, but ITP is unable to verify the location of the parent (who is the only biological parent available)?</p>	<p>Yes. According to IDEA Part C a surrogate parent can be assigned if, after reasonable efforts, a parent cannot be located. However, if the biological parent’s whereabouts become known and that person can be located, the surrogate parent assignment would need to end, and the ITP would work with the child’s biological parent.</p>
<p>28. Does a foster parent need to be designated as a surrogate parent to be able to “act as the child’s parent”?</p>	<p>Yes. Idaho law prohibits a foster parent from automatically acting as a parent for a child. A foster parent would need to be assigned as the child’s surrogate parent if the need was identified by ITP. However, just because a child is in foster care does not automatically mean the foster parent should be assigned as the surrogate parent. In this instance, it is imperative for the ITP service coordinator to work with the CFS case worker to identify the person best suited to be the child’s surrogate parent.</p>
<p>29. What happens if the judge assigns someone to be the surrogate parent and that individual does not qualify? What does ITP do?</p>	<p>IDEA Part C 303.422 states that the judge may appoint a surrogate parent when a child is a ward of the State to represent their rights ONLY pertaining to IDEA, Part C early intervention services, procedural safeguards, etc., “provided that the surrogate parent meets the IDEA, Part C requirements.” It is very important to ensure the judge and CW staff understands the</p>

circumstances in which a surrogate parent may need to be assigned, the qualifications for a surrogate parent, and the rights and responsibilities of a surrogate parent.

If a judge appoints a surrogate who does not meet IDEA Part C requirements, ITP should work with CW so they can alert the judge of this fact and schedule a hearing to have a surrogate parent who meets the requirements appointed. If needed, contact your regional Deputy Attorney General (DAG) to assist with this process.

30. Can a judge assign a surrogate parent?

Yes. If a child is a ward of the State, the surrogate parent, instead of being appointed by the Infant Toddler Program, may be appointed by the judge overseeing the infant or toddler's case provided that the surrogate parent meets the requirements under IDEA, Part C. However, this should only be used in extremely rare instances. If you come across this situation, contact your supervisor so they can inform central office.

Legal Guardian

31. What is the definition of "ward of the state"?

"Ward of the state" is defined as a child who is in the custody of the state. For Idaho, this means that the child is in foster care and the court has given the Department of Health and Welfare legal custody of the child.

32. What are the requirements for documentation of a legal guardian?

A legal guardian in Idaho is a court appointed guardian authorized by a court order. An affidavit, even if entitled "Guardianship" is NOT enough under Idaho law to prove guardianship. Legal guardianship is evidenced by:

- 1) A court order appointing the guardian, and/or
- 2) Letters of Guardianship which proves that the guardianship exists and is legal

These documents are date stamped by the court and have a judge's signature. While both are issued by the court, showing the Letters of Guardianship should be enough to prove legal guardianship.

33. When ITP requests legal documentation of guardianship from the grandparent, who covers the cost of obtaining the legal papers?

The grandparent, or whoever is named the legal guardian, is responsible to obtain the legal papers and financial cost associated with it.

34. Who has the final legal authority to authorize early intervention services – the

The legal guardian has the final authority to authorize early intervention services for that child. If a judge or court has granted legal guardianship of a child to another individual other than the

<p>legal guardian or the biological or adoptive parent?</p>	<p>biological or adopted parent through a court order, the parents' rights are effectively suspended (although there may be some residual parental rights, such as potential visitation).</p>
<p>35. Judges may assign legal guardianship to CASA workers. Is CASA considered a public agency?</p>	<p>Court Appointed Special Advocates (CASA) workers are appointed in child protection cases as Guardians ad Litem (GALs). The GALs are trained volunteers appointed by the court to advocate for the best interests of a child who has experienced abused or neglect. It is important to understand that GALs do NOT have any legal rights to the child they are advocating for.</p> <p>Idaho has seven Guardian ad Litem programs in the state. Each program is a non-profit 501(c)(3) corporation governed by a Board of Directors.</p> <p>A CASA worker should not be assigned as a legal guardian as it creates a conflict of interest with their required duties as an outside, neutral court appointed advocate. Additionally, a CASA worker should not be assigned as a surrogate parent for a child enrolled in the Infant Toddler Program.</p>
<p>36. What is the role of the Guardian Ad Litem? What information can ITP provide to them?</p>	<p>The role of the Guardian ad Litem is found at Idaho Code 16-1633, and includes:</p> <ul style="list-style-type: none">▪ Gathering information about the child and reporting to the court,▪ monitoring the child's circumstances to make sure that the court's orders are being followed and continue to be in the best interest of the child,▪ filing a report with the court at least five days before an adjudicatory, six-month review, or permanency hearing, and▪ including the child's express wishes regarding permanency in all reports filed after the adjudicatory hearing. <p>According to the Family Education Rights and Privacy Act (FERPA) 34 CFR 99.31(a)(9)(i-ii), an educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by a parent or legal if the disclosure meets the following condition:</p> <ul style="list-style-type: none">▪ The disclosure is to comply with a judicial order or lawfully issued subpoena.▪ The educational agency or institution may disclose information to comply with a judicial order or lawfully issued subpoena only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with –

- A Federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;
- Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or
- An *ex parte* court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.

Idaho Code 16-1634(3) states:

Except to the extent prohibited or regulated by federal law or by the provisions of chapter 82, title 39, Idaho Code, upon presentation of a copy of the order appointing guardian ad litem, any person or agency, including, without limitation, any hospital, school, organization, department of health and welfare, doctor, nurse, or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the guardian ad litem to inspect and copy pertinent records necessary for the proceeding for which the guardian is appointed relating to the child and parent without consent of the child or parents.

Therefore, when a copy of the court order assigning a Guardian ad Litem to a child is presented to the Infant Toddler Program, the Guardian ad Litem shall be permitted to inspect and copy pertinent records necessary to the current proceeding related to the child or children listed in the court order.

Ending Surrogate Parent Assignment

37. When a child exits the program, do we end the surrogate parent assignment in all circumstances, regardless of whether the child turns three or exits ITP for any other reason (graduates, opts out, moves, etc.)?

Yes. A surrogate parent assignment is needed only while a child is enrolled in ITP. Once that child exits the program for whatever reason, the need for a surrogate no longer exists under IDEA Part C.

38. What rights does a surrogate parent have when their appointment ends under IDEA

The rights of a surrogate parent assigned by ITP under IDEA Part C end when the child turns three years. Once a child exits ITP a surrogate parent does not have the right to request records

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Part C when the child turns three, and they are then appointed as surrogate parent under IDEA Part B by the SDE?

for that child. If a surrogate parent obtains legal custody (adoption, etc.) of a child after they exit ITP, they have the right to request records for that individual child.

ITP should not assume that since an individual assigned as a surrogate parent under IDEA Part C is automatically assigned as surrogate parents under IDEA Part B.

IDEA Part B has distinct regulations regarding assignment of a surrogate parent and their role and responsibilities. An individual would need to go through the process of being appointed surrogate parent for a child under Part B. Refer to 34 CFR 300.519(g).