ASSIGNMENT OF SURROGATE PARENT

POLICY: Surrogate Parent Assignment Process

PURPOSE: Whenever the parent(s) is (are) unavailable to participate or choose not to participate in the Early Intervention referral through transition/discharge experience (including, but not limited to evaluations, IFSP, transition) due to life circumstances, including the child’s placement in foster care, the initial service coordinator in collaboration with Foster Care Services must assess whether a surrogate parent is needed and inform County EIO/D. If a surrogate parent has to be appointed, the assignment must be made by the EIO/D before an evaluation can take place, as the surrogate parent is the only person authorized to sign the Parental Consent for Evaluation.

*If it is determined that a child needs a surrogate parent at the time of initial referral, the Early Intervention Official (EIO) should appoint a surrogate parent as soon as possible so that the evaluation process can occur within the required 45 day timeline from initial referral to initial IFSP meeting.

If the child is not in foster care and there is a “person in parental relation,” that person may sign all consents, including the Parental Consent for Evaluation, and a surrogate parent does not need to be assigned.

A copy of any documentation regarding appointment of legal guardianship should be entered into the child’s Early Intervention Record. This will only apply when a child is not in foster care and the child’s living arrangement matches one of 1-4 below:

According to the NYS Regulations, Section 69-4.1(ah), person in parental relations means:

1. The child’s legal guardian.

2. The child’s custodian; a person shall be regarded as the custodian of a child if he or she has assumed the charge and care of the child because the parents or legally appointed guardian of the minor have died, are imprisoned, are mentally ill, or have been committed to an institution, or because they have abandoned or deserted such child or are living outside the state or their whereabouts are unknown.

3. The child’s standby guardian after their authority becomes effective pursuant to Section 1726 of the Surrogate’s Court Procedure Act.

4. Persons acting in the place of a parent, such as a grandparent or stepparent with whom the child lives, as well as persons who are legally responsible for the child’s welfare.

5. This term does not apply to a child who is a Ward of the State and does not include a foster parent.

If the child is in foster care and the parental rights have not been terminated or voluntarily surrendered, the EIO/Designee has made a good faith effort of three documented attempts to contact the parent(s) in order to determine whether or not a surrogate parent is needed. Three
attempts will include, minimally, two telephone contacts with a person (not an answering machine) followed by a letter via certified mail. Refer to NYS Regulations, Section 69-4.16 (c). It may be the foster care caseworker responsibility to contact the parent if there are agreed upon procedures in place with the local Department of Social Services (LDSS) that state that the foster care caseworker will conduct the attempts to contact the parent for the EIO.

REFERENCES:
Public Health Law Article 25II-A Subpart 69-4.16 Parents, Persons in Parental Relation and Surrogate Parents

PROCEDURE:

For children in foster care, the steps described below should be followed in a timely manner so that an IFSP meeting can be convened within 45 days of the initial referral. The initial service coordinator will document on the form, Steps Taken to Determine Need for Surrogate Parent for Children in Foster Care (see attached) to ensure that all necessary activities have been carried out expeditiously.

The procedure for determining whether a surrogate parent is needed for a child in foster care and for assigning the surrogate is as follows:

REFERRAL:

I. On receipt of the referral of a child in foster care, the initial service coordinator must send the child’s Foster Care caseworker the Foster Care Caseworker Letter Parts I and II.

   A. If the caseworker was the primary referral source, the Foster Care Caseworker Letters (see attached) will serve as confirmation of the referral and will provide the name and phone number of the initial service coordinator. The caseworker will complete the Foster Care Letter Part II and return it to the initial service coordinator within 3 days of receipt.

   1. When a caseworker identifies a child as having a possible developmental delay(s), he/she must make a referral to the County EI Program within two working days. During this two day period, the caseworker should make a good faith effort to contact the parent(s) in the most expedient way possible:
      a. To explain the reasons for wanting to refer the child to EI.
      b. To ask whether they have any objections to the referral.
      c. To determine their availability to participate in the IFSP process.

   This should be clearly documented in the foster care case record/uniform case record (UCR).

   After making the referral, the caseworker should follow up with a letter to the parent(s) regarding the referral.
If the parent(s) agree(s) to the referral or cannot be reached, the caseworker should notify the initial service coordinator.

**However, if at any time the parent objects to the referral, the caseworker must notify the service coordinator who will then close the EI case.

2. Upon referral to the County EI Program, the EIO/D will send “Welcome to Early Intervention Confirmation Letter” to the Foster Family and a separate welcome letter to the parent.

B. If someone other than the caseworker made the referral (such as the foster parent or the child’s doctor), the Foster Care Caseworker Letter Part I (see attached) will serve as the notification to the caseworker that a referral to EI has been made and will provide the name and phone number of the initial service coordinator. The initial service coordinator will call the caseworker to discuss parental involvement and see if there is a need for a surrogate parent. If someone other than the caseworker already referred the child to EI and an attempt was not made to contact the parent(s), the Foster Care caseworker needs to make a good faith effort to contact the parent(s) by following the procedure described in Section I. A., before a surrogate parent can be assigned and the evaluation process can begin.

- This would include completing the Foster Care Caseworker Letter Part II (see attached) and returning it to the initial service coordinator.

II. The Initial/ongoing Service Coordinator should call the Foster Care caseworker to discuss whether a surrogate parent needs to be appointed and, if so, who it should be.

A. When the Foster Care caseworker has contact with a parent who wishes to participate in the EIP process, the caseworker should obtain permission to provide the necessary contact information to the initial service coordinator and discuss with the initial service coordinator, a mutual agreed method of communication and meetings with the parent.

B. If the parent is unable to participate but would like to designate a specific person to be the surrogate parent, the Foster Care caseworker will obtain the name, address and phone number of that specific person. The Foster Care caseworker will convey that information to the initial/ongoing service coordinator within 4 days. The initial/ongoing service coordinator will then complete the Surrogate Parent Designation by Parent Form (see attached) with the name provided by the parent. The initial/ongoing service coordinator will then forward the form to the Foster Care caseworker (a copy will be kept in the EI file). The Foster Care caseworker will have the parent sign and return the form to the County EI Program ASAP – Services through the EI Program may not be started until this form is returned to the County EI Program.

C. If the parent does not choose to designate someone to be the surrogate parent, the EIO/D and caseworker will decide who should be assigned. The caseworker will act in consultation with or as designee for the County Commissioner of DSS/Director of Human Services/Director of Health and Human Services.
• The above outline of events should occur within a two-week period to assist the child in accessing services within the required Federal/NYS regulation of 45 days. When there is a delay in the process, the initial service coordinator should immediately notify the EIO/D to contact the Foster Care supervisor to discuss whether the assignment of a surrogate parent has become necessary and, if so, who should be assigned.
• **Please Note:** When the child is a ward of the state, or when the child is not a ward of the state but his or her parents by birth or adoption are unavailable, after reasonable efforts to facilitate their participation and the child has no person in parental relation [refer to the NYS regulations, Section 69.4-16 (d)] the EIO/D will need to assign a surrogate parent from the list of possible choices in the next paragraph.

**CHOICE OF A SURROGATE PARENT**

1. The surrogate parent may not be an employee of any state agency involved in the provision of EI or other services to the child, or a person or employee of a person providing EI or other services to the child.
2. Since a foster parent is not considered to be a “person in parental relation” and technically is not an employee of a foster care agency, he/she may be selected as a surrogate parent after consultation with the caseworker or another representative from the foster care agency. The initial service coordinator should advise the foster parent that if he/she agrees to be the surrogate, his/her name, address, and phone number will become part of the child’s EI case record to which the parent may have access if he/she requests it.
3. Other choices for surrogate parent are:
   • A person voluntarily designated by the parent (as described above).
   • A relative who has an ongoing relationship with the child.
   • A friend of the parent who has an ongoing relationship with the child.
   • If no suitable individual is identified from the aforementioned choices, a qualified volunteer.

The surrogate parent has the same rights and responsibilities as the parent in the EI Program and represents the child in all matters related to:

- Screening, evaluation, and assessment of the child
- Development and implementation of the IFSP, including periodic and annual reviews
- The ongoing provision of EI services including transition planning (to include consent for referral to CPSE)
- The right to request mediation or an impartial hearing in the event of a dispute
- Any other rights established in the EI Program

III. The initial service coordinator should send the following to the EIO/D:

• Steps Taken to Determine Need for Surrogate Parent for Children in Foster Care
• Foster Care Letter Part II
• Surrogate Parent Assignment by EIO/D Form or
• Surrogate Parent Designation by Parent For (if completed)
• Surrogate Parent Assignment
IV. The EIO/D will review the information submitted and indicate his/her approval of the surrogate by signing the **Surrogate Parent Assignment by EIO/D** form (see attached) and returning it to the initial service coordinator.

V. The initial service coordinator will keep a copy of the approved **Surrogate Parent Assignment by EIO/D**, and the **Surrogate Parent Agreement** forms (see attached) in the child’s service coordination case record and send copies to the surrogate parent, the evaluation team selected by the surrogate parent, and the Foster Care caseworker. (At conclusion of the initial IFSP meeting, the initial service coordinator should make sure that the ongoing service coordinator and all service providers receive a copy of the approved form as well.)

Once the evaluation team has received the approved **Surrogate Parent Assignment by EIO/D** and the **Surrogate Parent Agreement** forms, the surrogate parent is authorized to sign the **Parental Consent for Evaluation** and other consents that parents would sign, and the evaluation may proceed.

When reviewing the IFSP at the Annual Review, the EIO/D shall, in consultation with the Foster Care caseworker, determine whether there have been any changes in circumstances that warrant a review of the appointment of a particular surrogate parent or the substitution of the parent. If a change in surrogate parent is found to be necessary, the EIO/D will appoint a new surrogate and will complete new **Surrogate Parent Assignment by EIO/D** and **Surrogate Parent Agreement** forms and a **Child Information Change Form**.

- A person appointed to serve as a surrogate parent shall be removed by the EIO in the event:
  1.) The surrogate parent is no longer willing or available to participate in that capacity;
  2.) The surrogate parent fails to fulfill his or her duties;
  3.) The child is no longer a ward of the state; or
  4.) A parent becomes available

**NOTE:** When requesting medical records, Foster Care agency staff may need to co-sign authorization for release of medical records with surrogate parent. This co-signature situation will be dependent upon protocols of specific medical provider offices.

**NOTE:** In some cases, the name and/or address of the surrogate/foster parent should not be made known to the parent.

**OVERSIGHT/SUPERVISION:**
- Annual training will be provided to all service coordinators and EIO/Ds using the Surrogacy Training Module;
- Conduct regular chart audits, including a sampling of cases where children are in foster care to verify compliance with surrogacy policy and procedures.
### STEPS TAKEN TO DETERMINE NEED FOR SURROGATE PARENT FOR CHILDREN IN FOSTER CARE

**RE:** Child’s Name: ___________________________  Date of Birth: ____________

Last  First

The initial service coordinator **MUST** use this form to document the steps taken to assess the need for a surrogate parent for a child in foster care. When completed, a copy should be kept in the service coordinator’s case record and a copy sent to the EIO/D. Please refer to the **Surrogate Assignment Process** for guidance on completing this form.

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>I.</td>
<td>On receipt of the referral of a child in foster care, the initial service coordinator will send the <strong>Foster Care Letter Parts I and II</strong> to the child’s caseworker.</td>
</tr>
</tbody>
</table>
|         | Date Letter Parts I and II sent: _____/_____/_____  
|         | Comments: |
| II.     | The initial service coordinator will call the Foster Care caseworker to discuss whether a surrogate parent needs to be appointed and, if so, whom it should be. |
|         | Date of phone call to Foster Care caseworker: _____/_____/_____  
|         | Result of discussion: |
| III.    | The initial service coordinator will send the **Foster Care Caseworker Letter II**, and **Surrogate Parent Designation By Parent** form (if completed) to the EIO/D along with a completed **Surrogate Parent Assignment by EIO/D** and a copy of this form completed through section III. |
|         | Date forms sent: _____/_____/_____  
|         | Comments: |
| IV.     | The EIO/D will review the information submitted and indicate his/her approval of the Surrogate by signing the form and returning it to the initial service coordinator. |
|         | Date approved **Surrogate Parent Assignment by EIO/D** for received from EIO/D: _____/_____/_____  
|         | Comments: |
| V.      | The initial service coordinator will send copies of the approved form to the surrogate Parent, the evaluation team, and the Foster Care caseworker. |
|         | Date copies of this form were sent to the above people: _____/_____/_____  
|         | Comments: |
INSTRUCTIONS FOR COMPLETION
FOSTER CARE CASEWORKER LETTER

When a child who is in foster care has been referred to the County Early Intervention Program, the initial service coordinator should send this letter along with the Foster Care Caseworker Letter Part II to the Foster Care caseworker.

If the referral source was someone other than the Foster Care caseworker (such as the foster parent or a primary health care provider), this letter serves as a way of informing the Foster Care caseworker of the referral to the EI Program. If the Foster Care caseworker made the referral, this letter serves as confirmation of the EI Program’s receipt of the referral.

To determine whether a surrogate parent is needed:

- If the parental rights have been terminated or surrendered, the parent(s) should not be contacted regarding the referral to the County EI Program.

- If the parent rights have not been terminated or voluntarily surrendered, prior to making the referral to the County EI Program, the EIO/Designee or DSS Caseworker (if written agreement is in place) should have made a minimum of three attempts to contact the parent(s) to discuss the reasons for referral, to ask if they have any objections to the referral, and to determine whether the parent(s) is (are) available to participate in the IFSP process.

If, on receiving this letter, the caseworker has not yet contacted the parent whose parental rights have not been terminated or voluntarily surrendered, the caseworker should now make a good faith effort to contact that parent to include him/her in the EI Program process. If the parent objects to the referral, the caseworker should immediately call the initial service coordinator so that the referral can be withdrawn. If this happens, the initial service coordinator should complete a Closure Form and send it to the EIO/D. The referral will then be withdrawn and the Early Intervention case closed.

The initial service coordinator must keep a copy of this letter in the child’s case record.

For an overview of the procedures to be followed for children in foster care, refer to the page entitled Surrogate Parent Assignment Process.
EARLY INTERVENTION PROGRAM
FOSTER CARE CASEWORKER LETTER PART I

RE: Child’s Name:_____________________________ Date of Birth:__________
                     Last                                                      First

Foster Care Caseworker Name:_____________________________ Phone:______________

Date: _____/_____/____

Dear __________________:

Full name of Foster Care Caseworker

The above named child, who is in foster care in _______ County, has been referred to the County Early Intervention Program by __________________________ for service coordination, evaluation and possibly, Early Intervention services. Please complete the attached Foster Care Caseworker Part II form and return it to me AS SOON AS POSSIBLE.

If the parent whose parental rights have not been terminated or voluntarily surrendered objects to the referral, please check the appropriate box on the Foster Care Caseworker Part II form and return it to me immediately so that we can withdraw the referral.

If, when you contacted the parent(s) to inform her/him of the plan to refer the child to Early Intervention, he/she indicated a desire to participate in the Individualized Family Service Plan process, please ask the parent to call me at _________________. If the parent(s) is (are) unable to participate but would like to designate someone to be a surrogate parent, please ask her/him to share that name with the EIO/Designee or DSS Caseworker (if a written agreement is in place). If the parent does not designate someone, the County EI Program will assign a surrogate parent as provided for in Article 25 of the NYS Public Health Law.

I will be calling you to discuss the need for a surrogate parent and whom your Department feels would be most appropriate (that is, if the parent has not designated anyone). If you have any questions, I can be reached at the number proved above.

Sincerely,

__________________________________________  ________________________________
Signature of Initial Service Coordinator          Print Name
INSTRUCTIONS FOR COMPLETION
FOSTER CARE CASEWORKER LETTER PART II

To determine whether a surrogate parent is needed:

- If the parental rights have been terminated or voluntarily surrendered, do not attempt to contact the parent. The initial service coordinator should consult with the Foster Care caseworker to determine who would be an appropriate surrogate parent.
- If the parental rights have not been terminated or voluntarily surrendered, the Foster Care caseworker must make a good faith effort to contact the parent to discuss the referral to the County Early Intervention Program.

After the attempt(s) to contact the parent(s) [refer to the Surrogate Parent Assignment Process, page 1 for guidelines], the Foster Care caseworker must use this form (Part II) to notify the initial service coordinator of the response or lack of response by the parent(s) by checking the appropriate box(es).

When the initial service coordinator sends the Foster Care Caseworker Letter Part I to the Foster Care caseworker, this Foster Care Caseworker Letter Part II should be attached.
Date: _____/_____/_____

Dear ___________________________:

Initial Service Coordinator

[  ] Parental rights have been terminated. Surrogate parent assignment is necessary.

OR

[  ] I have attempted to contact the parent(s) of the above-named child to discuss the referral to the County Early Intervention Program.

The parent(s) responded/did not respond in the following manner (please check one):

☐ Response received – parent objects to referral. Please withdraw referral and close EI case.

☐ No response from parent. Surrogate parent is needed.

☐ Response received – parent is unable to participate in the IFSP process and did not designate someone to be the surrogate parent. A surrogate parent is needed.

☐ Response received – parent wants to participate in the IFSP process. Parent will call the initial service coordinator by _____/_____/_____ to discuss his/her involvement. No surrogate parent is needed.

Sincerely,

_________________________________________  (____)_________  (____)_________
Foster Care Caseworker  Phone #  Fax #
INSTRUCTIONS FOR COMPLETION
SURROGATE PARENT DESIGNATION BY EIO/D

The initial/ongoing service coordinator is responsible for obtaining the information requested and for completing this form after consultation with the Foster Care caseworker involved with the child. The initial/ongoing service coordinator should then send the completed form to the EIO/D for approval before the surrogate parent may sign the Parental Consent for Evaluation and the evaluation can be initiated. Once a surrogate parent is assigned, that person is authorized to sign all consents that a parent would be asked to sign.

A foster parent may be assigned as a surrogate parent only after consultation with a Foster Care caseworker. The initial/ongoing service coordinator should advise the foster parent that if he/she agrees to be the surrogate, his/her name, address, and phone number will become a part of the child’s EI case record to which the parent may have access to if he/she requests it. Other possible choices for surrogate parent are:

- A person voluntarily designated by the parent (see the Surrogate Parent Designation by Parent form in this chapter)
- Relative(s) who have an ongoing relationship with child
- Friend(s) of the parent who have an ongoing relationship with the child
- If no suitable individual is identified from the aforementioned choices, a qualified volunteer

NOTE: If situation warrants, foster parent identifying information may be redacted from copies of the child’s EI case record. A written request for redaction must be forwarded to the EIO/D. Clearly document rationale for such redaction.

Refer to the Surrogate Parent Assignment Process for more information on the selection of a surrogate parent.

- **Please Note:** When the child is not in foster care, his/her birth or adoptive parents are unavailable, and the child has no one in parental relation, the EIO/D shall appoint a qualified surrogate parent. [NYS Regulations, Section 69-4.16 (d)].

The surrogate parent assignment may be changed at any time upon written request by the parent(s) or by the EIO/D. [NYS Regulations, Section 69-4.16 (i)].

When reviewing the IFSP at 6 months and Annual Reviews, the EIO/D shall, in consultation with the Foster Care caseworker, if appropriate, determine whether there have been any changes in circumstances that warrant a review of the appointment of a particular surrogate parent or the substitution of the parent. If a change in surrogate parent is found to be necessary, the EIO/D will appoint a new surrogate and will complete a new Surrogate Parent Assignment by EIO/D form.

The initial/ongoing service coordinator should keep a copy of the approved form in the child’s service coordination case record and send copies to the evaluation team and to all service providers (and to the ongoing service coordinator, when selected).
EARLY INTERVENTION PROGRAM
SURROGATE PARENT ASSIGNMENT BY EIO/D

RE: Child’s Name: _____________________________ Date of Birth: __________

Foster Care Agency: ___________________________________________________________

Agency: _____________________________________________________________________

Foster Care Caseworker Name: ____________________________ Phone: __________

Date: _____/_____/_____

Dear EI Director/EIO/D:

After consulting with the above Foster Care caseworker(s), it has been agreed that:

Print Name of Surrogate Parent: ____________________________

Relationship to Child: ___________________________________________________________________

may be assigned as the surrogate parent for the above-named child. The Early Intervention
Program has been discussed with him/her, and he/she is willing to be the child’s surrogate
parent. His/her name, address, and phone number will become a part of the child’s EI case
record to which the parent may have access to if he/she requests it. Please review and approve
this form and return it to me at the address below at your earliest convenience.

Sincerely,

_________________________________________________________________________

Signature of Initial/ongoing service Coordinator Print Name

Telephone #: _____________________________ Fax #: _____________________________

NOTE: If situation warrants, foster parent identifying information may be redacted from copies
of the child’s case record. A written request for redaction must be forwarded to EIO/D. Clearly
document rationale for such redaction.
NOTE: this form need only be utilized when parental rights have not been terminated or voluntarily surrendered. If parental rights have been terminated or surrendered, the parent(s) should not be contacted.

This form is to be completed by the parent or by an Early Intervention staff person with information provided by the parent when he/she is unable to participate in the IFSP process or make decisions about the EI Program and would like to designate a particular person to serve as the surrogate parent. [NYS Regulations, Section 69-4.16 (e).]

If the child is in foster care, the Foster Care caseworker may obtain this information from the parent. If the child is not in foster care, it may be obtained by the initial service coordinator upon consultation with the person in parental relation to the child.

The EIO/D is responsible for ensuring that the parent has been offered the option of voluntarily appointing a surrogate parent. However, the parent is not required to designate a specific person. The EIO/D in consultation with the caseworker may make that decision.

If this form has been completed, the initial service coordinator must keep a copy of it in the child’s case record and must send a copy to the Early Intervention Official or designee (EIO/D), to the evaluator(s), and to the service provider(s) (when selected).
Child’s Name: ___________________________ Date of Birth: __________

I, ___________________________, am the biological/adoptive and legal parent of the above-named child. I acknowledge that I am unable to participate in the Early Intervention evaluation and treatment process.

It has been fully explained to me that I may voluntarily designate another suitable person to act for me as my child’s surrogate (substitute) parent—that is, someone who may make decisions regarding Early Intervention services while I am unable to do so—and that this person may not be an employee of any state agency providing EI services to the child or a person or employee of a person providing EI services to the child. I understand that I can withdraw or change this designation at any time.

I hereby designate: ___________________________ Relationship: ________________

Surrogate’s Full Name

Surrogates Address: ___________________________ ___________________________ Street or PO Box # Apt. #

________________________

City or Town State Zip Code

Surrogate’s Telephone #: (________) ___________ (________) ___________
Home Telephone Work Telephone

________________________

** Signature of Parent _____/_____/______

Date

** Check if applicable:
☐ This form was completed by ___________________________, ___________________________.

The name of the surrogate parent was provided by the parent during a telephone conversation with an Early Intervention staff member or with the Foster Care caseworker. Therefore, no parental signature could be obtained.
NOTE: This need only be utilized when parental rights have been terminated or voluntarily surrendered. If parental rights have been terminated or surrendered, the parent should not be contacted.

This form is to be completed by the initial service coordinator to obtain signed agreement by the surrogate parent that he/she is willing to accept the Roles and Responsibilities of a Surrogate Parent within the County Early Intervention Program. Original form will be kept in the child’s EI case record.

The initial service coordinator will provide the surrogate parent with a copy of the New York State Department of Health’s “The Early Intervention Program: A Parent’s Guide” and will review the Roles and Responsibilities of a Surrogate Parent/Pre-Adoptive Parent with the surrogate parent.
EARLY INTERVENTION PROGRAM
SURROGATE PARENT AGREEMENT

RE: Child’s Name: ___________________________________________ Date of Birth: __________

Last First

Foster Care Parent’s Name: ___________________________________________

Address: _______________________________________________________

_______________________________________________________________

Foster Care Caseworker Name: ________________________________

Date: _____/_____/_____ 

After consulting with the above Foster Care Caseworker, it has been agreed that:

_____________________________ ________________________________
Print Name of Surrogate Parent Relationship to Child

will be assigned as the surrogate parent for the above-named child. The Early Intervention Program has been discussed with him/her, and he/she is willing to be the child’s surrogate parent.

☐ The surrogate parent has received a copy of “The Early Intervention Program: A Parent’s Guide”.

_____________________________ ____/_____/_____ 

Signature of Surrogate Parent Date

_____________________________ ____/_____/_____ 

Signature of EIO/D Date