



San Luis Obispo County SELPA
 San Luis Obispo County Office of Education Foster Youth Services
EDUCATION RIGHTS HOLDER FACT SHEET



WHO IS THE EDUCATION RIGHTS HOLDER (ERH)?¹

- The default education rights holder (ERH) is a child’s biological parent(s).
- However, a court can limit a parent’s education rights and appoint a “Responsible Adult” or “Educational Representative” to make educational decisions.
- If *the whereabouts of the parent(s) or guardian of the student are not known or available AND the court is unable to appoint a responsible adult because educational rights have not been limited AND a child has been referred for a special education or Section 504 assessment, has an IEP, or is subject to disciplinary proceedings, then the LEA must appoint a “Surrogate Parent” as ERH.*²
- Once a child turns 18 years old, he or she holds his or her own education rights.

Who can be a child’s ERH?	Who can <u>NOT</u> be a child’s ERH?
<ul style="list-style-type: none"> ● Biological Parent ● Legal Guardian ● A responsible adult who is appointed by the court (e.g. CASA, foster parents, or relative caregiver) ● Educational “Surrogate Parent” appointed by the LEA and trained by the San Luis Obispo County SELPA ● For children in long-term foster care, after parents’ education rights have been limited and reunification services have ended, the current caregiver is ERH. 	<ul style="list-style-type: none"> ● CWS Social Worker ● Probation Officer ● STRTP Staff ● District Employee ● An employee of any agency involved in the “education or care” of the child ● Anyone with a conflict of interest

HOW DO YOU KNOW WHO THE ERH IS?

- Helpful document
 - JV-535: Court order designating ERH
- Ask the caregiver and verify with CWS Social Worker or Probation Officer
- Contact SLOCOE Foster Youth Services - (805) 782-7268
- Contact SLO SELPA - (805) 782-7329
- Contact CASA - (805) 541-6542 ext. 106

¹Ca. Welfare & Institutions Code §§ 319(g), 361(a).

²The San Luis Obispo County SELPA conducts training and provides support for surrogate volunteers in the areas of special education regulations and procedures, IEP process, procedural safeguards, and cultural sensitivity. Upon the successful completion of training, a certification letter is sent to each surrogate parent volunteer. A list of certified surrogates is maintained at the SELPA office. The individual LEAs contact the SELPA when they need to appoint a “surrogate parent” for a special education student in their LEA. The SELPA makes the initial contact with the trained surrogate.



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WHAT IS THE ROLE OF THE ERH?

- Stand in the shoes of a parent and make education-based decisions based on the best interest of the child.
- Investigate, with the school district, the child’s educational needs and determine whether those needs are met.
- Communicate with the county social worker and/or court prior to each hearing on the child’s educational needs.

WHY IS IT IMPORTANT TO KNOW WHO THE ERH IS?

- Only a person who legally holds a foster child’s education rights can make educational decisions. For example:
 - Whether a child should remain in his/her school of origin or transfer to a new school; or
 - Whether a child’s IEP is appropriate; or
 - Provide permission to assess a child with a suspected disability; or
 - Whether a child should graduate from high school under AB 167/216.
- School districts must afford the same rights to an ERH as to a student’s parents.
- The law specifically requires school districts to notify the ERH:
 - When a school is recommending that a foster child transfer to a new school; or
 - Whether a foster child qualifies for AB 167/216, within 30 days after the child transfers into a new high school after their second year; or
 - When the child is subject to specific disciplinary proceedings such as an expulsion hearing; or
 - When a child is suspected of a disability requiring assessment.

HELPFUL INFORMATION

- The “Surrogate Parent” represents the rights of a student with special needs in *all education matters* related to the provision of a free, appropriate public education (FAPE):
 - A “Surrogate Parent” is needed whenever the whereabouts of the parent(s) or guardian of the student are not known or available or the child is a ward of the state.
 - The appointment will be terminated whenever the parents are located and are legally entitled to represent their child in educational matters (i.e. When education rights have not been limited).
 - When the whereabouts of the parents or guardians are not known or available, the LEA can be contacted to assign a “Surrogate Parent” who has been trained through the SELPA to support all processes identified under the Individuals with Disabilities Education Act (IDEA).

For more information, please refer to the [CA Foster Youth Education Task Force Fact Sheet Number Two](#)