

## (9.24) Who makes decisions for a special education student whose parents' rights have been terminated or who has no parent involved in his life?

When there is no one to act as a parent for a student with disabilities, the school district or the juvenile court must appoint a responsible adult to make educational decisions. Under AB 3632, the responsible adult is known as a “surrogate parent”.

This individual, usually a volunteer, is appointed by the school district to represent students in the IEP process if one or more of the following is true:

1. The student is a dependent or ward of the court; the court has limited the parent or guardian's rights to make educational decisions; and the court has not appointed a responsible adult to represent the student in the IEP process.
2. No parent for the student can be identified.
3. After reasonable efforts, the district cannot locate a parent.

The district must make “reasonable efforts” to appoint a surrogate parent within 30 days of determining that a surrogate parent is necessary. In addition, the responsible adult appointed by the district cannot have any conflict of interest with the student. A conflict means any interest that might restrict or bias the ability to advocate for all of the services required to ensure that the student has FAPE. [Cal. Gov. Code Secs. 7579.5(a) & (i).]

If the student is subject to the authority of the juvenile court, the judge appoints someone to make educational decisions for a dependent or ward of the court. The court may leave decision-making authority with the parent if that parent is still part of the student's life. However, it has the power to limit the parent's authority regarding educational decisions through a court order, but only to the extent necessary to protect the student.

If the court limits a parent's educational rights, it must also appoint a responsible adult to make educational decisions until the following occurs:

1. The student turns 18 (unless she chooses to assign her educational decision-making authority to someone else or is the court finds the student to be "incompetent");
2. Another responsible adult is appointed to make educational decisions;
3. The parent's rights to make decisions are restored;
4. A guardian or conservator is appointed for the student; or
5. The student is placed in long-term foster care and the foster parent is given educational decision-making authority.

Just like the school district, the court must also appoint a responsible adult who does not have any conflict of interest with the student. For the court, a conflict of interest means any interest that might restrict or bias the ability to make educational decisions. The adult cannot receive compensation or attorneys' fees for making these decisions. [Cal. Welf. & Inst. Code Secs. 361(a) & 726(b).]