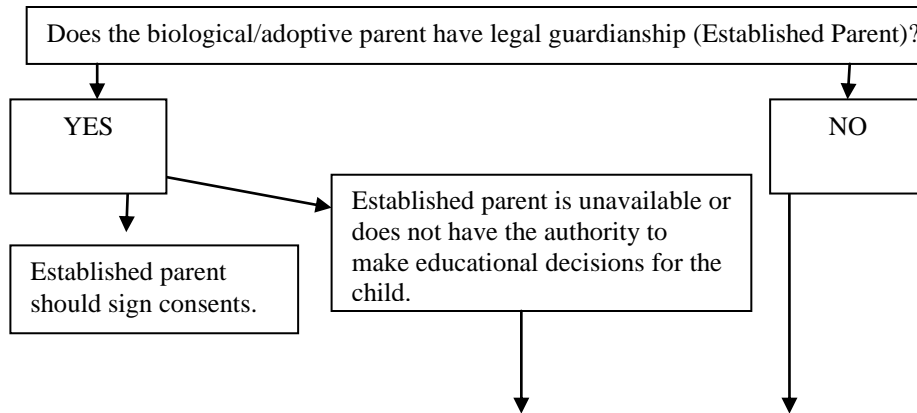


## Decision Tree for Unobtainable Parent Signature for IDEA Part C (Early ACCESS)

Consider the following....



**IMPORTANT!**  
Both Child Welfare law and IDEA law recognize the importance of involving parents in important decisions for their child. **ALL reasonable efforts** should be made to engage parents and obtain informed consents (Iowa Code § 232.2(11) and IDEA 34 C.F.R. § 300.30(b)(1).

When the biological/adoptive parent does not have legal guardianship, does not have authority to make educational decisions for a child, and/or is not available (location unknown or not reasonable to locate), social workers and educators must find someone who has that authority.

**Consider the following options to determine person [parent] who has authority to sign IDEA consents.** Note. Definitions pertaining to foster care are on page 3.

The surrogate parent may be appointed by either the court or AEA Director of Special Education in cases involving a “ward of the state.”

Separation or Divorce of Biological or Adoptive Parent			
If ...	And...	Then ...	Action
parents are not divorced	there is no court order	signature may be obtained from either parent	No Surrogate Needed
parents are divorced	have been granted joint custody by a court	signature may be obtained from either parent	No Surrogate Needed
parents are divorced	one parent is granted custody by a court	signature is obtained from the custodial parent	No Surrogate Needed
two biological or adoptive parents are acting as a child's parents	each has equal decision-making responsibilities concerning the child's education	the IFSP team makes a decision in the child's best interest, and gives prior written notice to both parents	No Surrogate Needed
Parents are Unmarried			
If ...	And...	Then ...	Action
parents are unmarried	there is no court order	signature may be obtained from either parent	No Surrogate Needed
parents are unmarried	have been granted joint custody	signature may be obtained from either parent	No Surrogate Needed
parents are unmarried	one parent has been granted sole custody	signature is obtained from the custodial parent	No Surrogate Needed

<b>Relative Placement: e.g. aunt/uncle; grandparent, stepparent, or other relative and/or DHS placement or NON-DHS</b>			
<b>If ...</b>	<b>And...</b>	<b>Then ...</b>	<b>Action</b>
the whereabouts of a child's parents are unknown	the child is living with a relative or another adult who is "acting in place of the biological or adoptive parent"	that adult may act as the child's parent and sign IDEA consents.	No Surrogate Needed
A parent is unavailable (incarcerated, rehab, or does not return phone calls, letters, etc)	The child is living with a relative who is "acting in place of the biological or adoptive parent"	That adult (relative) may act as the child's parent and sign IDEA consents	No Surrogate Needed
a child is placed by DHS with an adult, such as a relative,	that adult is "acting in place of the biological or adoptive parent,"	that adult may act as the child's parent and sign IDEA consents.	No Surrogate Needed
<b>Guardian Placement with NON-DHS adult</b>			
<b>If ...</b>	<b>And...</b>	<b>Then ...</b>	<b>Action</b>
a court awards guardianship to someone other than the biological or adoptive parent,	the guardian is <b>not</b> a DHS employee, (Education law provides that a DHS employee may NOT sign consents on behalf of the child because they are not defined as parents under 34 C.F.R. § 300.30(a) (3))	the guardian may sign IDEA consents on behalf of the child.	No Surrogate Needed
<b>Guardian Placement with DHS acting as Guardian</b>			
<b>If ...</b>	<b>And...</b>	<b>Then ...</b>	<b>Action</b>
a court awards guardianship to someone other than the biological or adoptive parent,	the guardian is a DHS employee, (Education law provides that a DHS employee may NOT sign consents on behalf of the child because they are not defined as parents under 34 C.F.R. § 300.30(a) (3).)	the service coordinator and/or DHS caseworker start the process for obtaining a surrogate parent.	<b>Begin process for a surrogate parent appointed by SPED Director or Director's designee. In addition, a judge may appoint surrogate</b>
<b>Foster Parent who is a relative: e.g. aunt/uncle; grandparent, stepparent, or other relative</b>			
<b>If ...</b>	<b>And...</b>	<b>Then ...</b>	<b>Action</b>
a child is placed into foster care	the child's foster parent is also the child's relative,	the relative foster parent may act as the child's parent and sign IDEA consents.	No Surrogate Needed
<b>Foster Parent who is not a relative</b>			
<b>If ...</b>	<b>And...</b>	<b>Then ...</b>	<b>Action</b>
a child is placed into foster care	the child's foster parent is NOT a relative to the child (Based on Iowa law, a foster parent may not serve as a child's parent under IDEA unless appointed as a surrogate)	the foster parent is eligible to be appointed as the child's surrogate parent (with the foster parent's approval)..	<b>Begin process for a surrogate parent appointed by SPED Director or Director's designee. In addition, a judge may appoint surrogate</b>

<b>Court Designee</b>			
<b>If ...</b>	<b>And...</b>	<b>Then ...</b>	<b>Action</b>
a court order names a particular person to make early intervention and/or special education decisions for a child	the person is not a DHS employee or educator	The court order names the surrogate	<b>Put copy of court order in Early ACCESS files</b>
<b>Court Designee (continued)</b>			
<b>If ...</b>	<b>And...</b>	<b>Then ...</b>	<b>Action</b>
a court order names a particular person to make early intervention and/or special education decisions for a child	the person is a DHS employee or educator	The judge may not appoint any person involved in the care or education of a child to be the child's surrogate. (if this occurs work with the DHS Caseworker to educate the judge)	<b>Begin process for a surrogate parent appointed by SPED Director or Director's designee. In addition, a judge may appoint surrogate</b>
<b>Other Concerns</b>			
<b>If ...</b>	<b>And...</b>	<b>Then ...</b>	<b>Action</b>
the biological or adoptive parent is attempting to act as the parent  Note: Except as provided in next row	when more than one party is qualified under prior parent definition to act as parent	the biological or adoptive parent must be presumed to be the parent for IDEA purposes, unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.	No Surrogate Needed
a judicial decree or order identifies a specific person or a person under the parent definition to act as the "parent" of a child or to make educational decisions on behalf of a child		such person or persons shall be determined to be the "parent".	No Surrogate Needed

**Foster Care Definitions:** *the following definitions pertain to foster care in Iowa and are NOT federal definitions.*

Foster Parent: a person who has a home licensed by the Department of Human Services (DHS) to care for specific number of foster children in their home. Foster parents may care for non-relative or relative children.

Foster Care Placement: **refers to temporary, out-of-home care under the supervision of the DHS** or Juvenile Court Services (JCS). This can include placement with a relative, a suitable person with a kinship bond, or a foster family. For older children other options for living arrangements include group home, apartment living, emergency juvenile shelter, and psychiatric medical institution for children.

Relative Care Placement: refers to placement of a child with a relative under the supervision of DHS. Note: a relative can be either a licensed foster parent or an unlicensed relative. When a child is placed with a relative under the supervision of DHS this is a form of foster care.

Kin Care Placement: This is an “umbrella” term meaning the placement under the supervision of DHS can either be with a relative or a “suitable other”; which is a person who has a significant relationship (bond) with the child. When a child is placed with a relative under the supervision of DHS this is a form of foster care.