

## Parents

The Children's Developmental Services Agency must identify an individual as the parent when a child is referred to the Infant-Toddler Program. The person identified as the parent is documented on the *North Carolina Infant-Toddler Program Referral* form. The term parent under the Individuals with Disabilities Education Act is more inclusive than just the child's natural or adoptive parent. Parent is defined to mean:

- a natural or adoptive parent of the child (unless there has been legal action that terminates parental rights or there is a judicial order preventing a non-custodial parent from assuming legal responsibilities);
- or in the absence of a natural or adoptive parent, a legal guardian (other than the county Department of Social Services);
- or in the absence of a natural or adoptive parent or a legal guardian, a person acting in the place of a parent or "in loco parentis" (e.g., a grandparent, stepparent, another relative, a friend of the family with whom the child lives),
- or in the absence of any of the above options, a surrogate parent who has been assigned in accordance with Infant-Toddler Program policy. (*For additional information, see Policy Bulletin #16 – Surrogate Parents.*)

Anyone meeting the above definition of parent is afforded all legal rights and responsibilities given to parents under the Infant-Toddler Program. Any reference to parent in the Infant-Toddler Program Manual refers to the person identified by the Children's Developmental Services Agency as the parent based on the definition above. For the sake of consistency, the word parent has been used in the singular form throughout the Manual. If there is more than one parent, both should be involved in all aspects of the Infant-Toddler Program to the maximum extent possible.

"In loco parentis" is defined as a person, other than a natural or adoptive parent or legal guardian, who has assumed the status and obligation of a parent without being awarded legal custody of a juvenile by a court. Anyone who stands in loco parentis to a child assumes, in general, the rights and obligations of a natural parent, and while that relationship continues, he is accountable for the maintenance, care and education of the child. Indications that a person is acting in loco parentis include, but are not limited to: the child is included in the health insurance of the adult with whom the child is living; the adult caring for the child receives funding intended for the child such as Medicaid, Supplemental Security Income, a disability check on behalf of the child; or the adult provides food, clothing, and medical care for the child. A person acting in loco parentis must be at least eighteen (18) years old.

A natural parent may have given explicit authority to someone to act in loco parentis or may have allowed this implicitly by not interfering with the person's activities. The Children's Developmental Services Agency, as well as others, may accept the claim of "acting as a parent" without any requirement of proof other than the person's explanation of the circumstances that led him into this "acting as parent" role. However, if the claim seems questionable, the Children's Developmental Services Agency may

provide notice to the natural parent, when his identity is known, of actions being taken by the “acting parent”, so that the natural parent may object if he desires. Whenever possible, the Children’s Developmental Services Agency should encourage the natural parent to put in writing his desire to have a particular person “acting as the parent” for his child and have this document notarized.

A parent is unavailable only if the Infant-Toddler Program after reasonable efforts cannot identify the whereabouts of a parent. A parent is not unavailable merely because he is unresponsive or unwilling to enroll the child in the Infant-Toddler Program, as the Infant-Toddler Program is a voluntary program. A parent who resides a far distance from his child or is in an institution (e.g., prison) is available in regards to the Infant-Toddler Program. Unless the county Department of Social Services has legal authority to make decisions for the child, the parent retains this right. Infant-Toddler Program service providers may need to be creative in assisting a parent to exercise his rights in such circumstances. Service providers may need to go to the parent, offer to hold meetings by telephone, mail information to the parent, have someone from another public agency near to the parent meet with him, or assist the parent in designating someone near the child to act for the parent.

If a parent, as defined above, cannot be identified or if the guardian is the Department of Social Services, then a surrogate parent must be appointed. (*For more information, see Policy Bulletin #16 – Surrogate Parents.*)