

As a relative caregiver, it is important to know what decisions you can make regarding the child's education and what resources are available to you and your family. **Nothing in this factsheet should be considered legal advice from the Department of Children and Families (DCF). Please consult with an attorney with any legal questions.**

## Legal Custody: Educational Decision-Making

Decisions related to a child's education are generally determined by the child's parent(s) or legal guardian(s), with some exceptions that are described below. Educational decisions include, but are not limited to, school enrollment, access to a child's pupil records, or how to best address a child's needs with special education services. Please note that there are additional laws and definitions impacting special education that are not addressed in this document.

### How do I know if I can make educational decisions for the child in my home?

Unless otherwise determined through a court order or through a Power of Attorney, the child's parent(s) or legal guardian(s) maintain educational decision-making authority. Efforts should be made to involve the child's parent(s) or legal guardian(s) in all educational decisions while you are caring for the child. If the court removes the parent(s) or legal guardian(s)' decision-making authority through a termination of parental rights or the appointment of a guardian, the school must be made aware.

### What if the child's parent(s) or legal guardian(s) is not available to make these decisions?

If the child's parent(s) or legal guardian(s) is unavailable or is unwilling to make educational decisions for the child, educational decision-making authority can be modified by the court. If the child is placed in your home under a court order through the child welfare or youth justice system, you can work with the child welfare agency to request educational decision-making authority. If the child is residing in your home through an informal family arrangement you may file for temporary or permanent guardianship of the child.

If the child is placed in your home under a court order through the child welfare or youth justice system, you may be able to apply the **Reasonable and Prudent Parenting Standard**. The Reasonable and Prudent Parent Standard allows out-of-home care providers to make decisions regarding the child's participation in age or developmentally appropriate extra-curricular, enrichment, cultural, and social activities based on the cognitive, emotional, physical, and behavioral capacities of the child. This standard would allow you to sign permission slips for school sanctioned field trips or sign the child up for extra-curricular activities through school. The Reasonable and Prudent Parenting Standard does not grant you the authority to make education-related decisions as described above.

### What is power of attorney? How do I obtain power of attorney status?

Power of attorney is a procedure that allows the child's parent(s) or legal guardian(s) to delegate certain parental powers to another individual willing to care for the child. A power of attorney cannot remain in effect for more than a year unless it is to a relative of the child or it is approved by the court. A power of attorney does not deprive the child's parent(s) or legal guardian(s) of their powers regarding the care and custody of the child. Some schools require a form to be completed to exercise power of attorney duties. You should contact your local school district to find out what their policies are regarding power of attorney status if you are not the child's guardian.

### Can I enroll the child in my care in school?

Enrollment in school is an educational decision that must be made by the child's parent(s) or legal guardian(s) unless the child is under the jurisdiction of a court order that provides educational decision-making authority to another party, or another exception applies. A school district must enroll any eligible child that is the resident of their district. If a child is going to be enrolled in a school district outside of their residence, a parent, legal guardian, or person with educational decision-making authority can apply for open enrollment. Without educational decision-making authority, you will want to work with the child's parent(s), legal guardian(s), or a person with educational decision-making authority to enroll them in school if they are not enrolled already.

### What is open enrollment? Can I apply for open enrollment for the child in my home?

The inter-district public school open enrollment program allows parents and legal guardians to apply for their children to attend public school in a school district other than the one in which they reside. If you have educational decision-making authority, you may choose to open enroll the child. An alternative application procedure allows parents or legal guardians to apply for open enrollment at any time during a school year if certain criteria are met. For additional information, please visit the Department of Public Instruction's alternative application procedures page: [www.dpi.wisconsin.gov/open-enrollment/applications/alternative](http://www.dpi.wisconsin.gov/open-enrollment/applications/alternative).

## School Communication

### Can I communicate with school officials about the child in my care?

Due to confidentiality laws, without consent or other statutory authority, school officials are only able to communicate directly with the child's parent(s) or legal guardian(s) regarding the child. In general, there are three circumstances when school officials would be allowed to release confidential information to an individual or entity, other than the child's parent(s) or legal guardian(s): (1) a signed authorization by the parent(s) or legal guardian(s) that consents to the release of information, (2) a court order, or (3) authorization by statute. While the school may be limited in what they can share, you should be encouraged to share information about the child in your care with the school, such as what the child's needs are, to the extent that it is not confidential under law.

If the child is placed in your home under a court order through the child welfare or youth justice system, the child welfare agency may provide assistance in communicating with the school. If questions or concerns arise about the child's educational needs, you are encouraged to share these needs with the child's child welfare professional.

### Every Student Succeeds Act (ESSA)

ESSA applies to children in out-of-home care who are under the care and placement responsibility of DCF or a county or tribal child welfare agency. The key provisions of ESSA are:

**School of Origin:** Provides assurances that children in out-of-home care remain in their school of origin, unless there is a determination that it is not in their best interest to do so.

**Immediate enrollment:** When a child in out-of-home care does not remain in the school of origin, the student must immediately be enrolled in a new school, regardless of whether the student can produce the records typically required for enrollment.

**Records transfer:** When a child in out-of-home care changes schools, the enrolling school must immediately contact the previous school to obtain academic and other records.

**Transportation:** The local education agencies must collaborate with state, local child, or tribal child welfare agencies to implement clear written procedures regarding transportation and maintaining the child in their school of origin.

**Collaboration:** The state and local education and child welfare agencies are required to coordinate efforts and identify points of contact.

## Who is responsible for transporting the child in my care to school?

A child attending a public elementary or secondary school, including four and five-year-old kindergarten, is entitled to transportation by the public school district in which the child resides if the child resides two or more miles from the school. Some districts provide transportation to children under two miles from the school in which they are enrolled, but they are not required to by law. In other circumstances, the child's parent(s) or legal guardian(s) is responsible for transporting the child to school.

If the child is placed in your home under a court order through the child welfare or youth justice system, transportation may be provided and funded through the child welfare agency, the school district, or both. In some circumstances, you may be responsible for the child's transportation. Questions regarding the child's school transportation plan can be directed to the child's child welfare professional.



The Department of Children and Families is an equal opportunity employer and service provider. If you have a disability and need to access services, receive information in an alternate format, or need information translated to another language, please call the Bureau of Permanence and Out of Home Care or Division of Safety and Permanency at 608-422-7000. Individuals who are deaf, hard of hearing, deaf-blind or speech disabled can use the free Wisconsin Relay Service (WRS) – 711 to contact the department.