

Determining what types of educational decisions you can make or the types of educational resources available for children living in your care is an important first step when caring for a relative child. Based on your family's situation, you may need to work closely with the child's parent to navigate the education system. ***Nothing in this fact sheet should be considered legal advice from 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 or the legal guardian, 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 address child's special education needs. Please note that there are additional law 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 delegation of parental power of attorney by a parent, nothing changes with regard to parental involvement merely because a child is living with a relative. Efforts should be made to involve the parents in all educational decisions, as they maintain educational decision-making authority in most cases. If the court removes that authority from the parent through, for example, a termination of parental rights or the appointment of a guardian, the school must be made aware.

### What if the child's parent is not available to make educational decisions?

If the child's parent 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 in your home is placed under a court order through the child welfare or youth justice system, you can work with the child's caseworker to request educational-decision making authority. If the child is placed in your home through an informal family arrangement or voluntary kinship program, you may file for temporary or permanent guardianship of the child.

If the child in your home is currently placed by a child welfare or youth justice agency, 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 to permit children in their care to participate 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 allows relatives that have a child in their home, who was placed by a child welfare or youth justice agency, to sign permissions 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 permit educational decision making authority.

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

State statute allows parents to bestow relatives with the power of attorney for the care of their children. Power of attorney is a written document or other record that grants authority to an individual, in this case a relative, to act in the place of the parent or person with guardianship of the child, with respect to certain 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 in regards to power of attorney status, if you do not have guardianship.

## Enrollment

### 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 or guardian, 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, guardian, or person with educational decision-making authority can apply for open enrollment. Without educational decision-making authority, you will want work with the child's parent, guardian, or a person with educational decision making authority to enroll them in school, if they are not enrolled already.

## Enrollment

### What is open enrollment and can I open enroll the child in my home?

The inter-district public school open enrollment program allows parents and 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 pupils 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, school officials are only able to communicate directly to a parent or guardian in regards to a child attending their school, without consent or other statutory authority. In general, there are three circumstances where a school would be allowed to release confidential information to an individual or entity, other than the child's parent or guardian: 1. a signed authorization that consents to the release of information by the parent, 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 to the extent that it is not confidential under law.

If the child is placed by a child welfare or youth justice agency, the child's caseworker may provide assistance in communication, as schools are allowed to share information with child welfare agencies. If questions or concerns arise about the child's educational needs, you are encouraged to share these needs with the child's caseworker.

### 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 youth in their school of origin.

## Transportation

### 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 or guardian is responsible for transporting the child to school.

If the child is placed by a child welfare or youth justice agency, transportation may be provided and funded through either the child welfare agency, the school district, or both. In some circumstances, the child's caregiver is responsible for transportation. Questions regarding the child's school transportation plan can be directed to the child's caseworker.