

# The Role of Kin Caregivers in Education

A kin caregiver's role in advocating for the educational needs of the children they care for is vital. A child's educational needs include ensuring the child is enrolled and engaged in an appropriate education setting where the child's educational needs are being met. Kin caregivers face unique challenges in their efforts to guarantee the student's educational success, even if they are not given the authority to make education decisions on behalf of the student (commonly referred to as education decision making, or EDM rights).

The kin caregiver should always be part of the child's educational team and should advocate for the child whenever possible. As the person seeing the child before and after school, assisting with homework, and monitoring education progress, the kin caregiver is uniquely positioned to be a strong advocate for necessary services and support. The kin caregiver also has a role in communicating necessary information to the student's team, which ultimately increases the likelihood the child will succeed

in school and in life. In some circumstances, kin caregivers may serve as the child's formal education decision maker (EDM). Educational decision-making authority is often granted by the court if a kin caregiver has legal custody or guardianship or when the child is in child welfare custody, if deemed necessary. This resource provides tips for kin caregivers to advocate for educational needs and discusses the kin caregiver's role in various education decisions.

## EDUCATION DECISIONS: THE STUDENT IS IN CHILD WELFARE CUSTODY

### Day-to-day Education Decisions

- ▶ Per the reasonable and prudent parent standard, kin caregivers who are foster parents are permitted to make day-to-day education decisions for a child, including:
  - Signing permission slips for field trips or extracurricular activities;
  - Authorizing a child to stay home from school when necessary;
  - Participating in planning for re-entry following any disciplinary action;
  - Making other time-sensitive decisions to ensure the child has as typical of a school experience as possible; and
  - Requesting academic support services, such as tutoring.
- ▶ When making these decisions, kin should consider the:
  - Child's best interest;
  - Child's age, maturity, and development level;

- Potential risk of the child's participation in the activity;
- Child's behavioral history; and
- Input of the child's parents, when practical and appropriate.

### Participation in School Stability Decisions

- ▶ If a child may change schools because of a living placement move, the caseworker typically oversees this decision, which is called a "best interest decision." However, the caseworker should solicit input from the kin caregiver about whether it is in the child's best interest to remain in their current school. Kin caregivers should share information about:
  - The child's connection to the school;
  - Any positive relationships built by the child with school staff;
  - The child's feelings about attending their current school, including whether they feel safe there;

- The child's extracurricular activities; and
- Any other relevant information a kin caregiver may have about the child's current school.

### Significant Education Decisions

- ▶ Education decisions beyond day-to-day decisions are typically made by the EDM.
- ▶ The child's parent(s) retain the right to make educational decisions for the child unless those rights have been limited by the court.
- ▶ It is possible for kin to be appointed by the court to act as the EDM in certain circumstances. If this is the case, kin will need to make decisions including:
  - Enrollment in a magnet or charter program;
  - Course selection;
  - Discipline proceedings; or
  - Additional supports and services for the student.

### Special Education Decisions

- ▶ A kin caregiver may be able to act as the parent for purposes of special education if the birth parents' rights have been limited or they are "not attempting to act as the parent" for purposes of special education. The Individuals with Disabilities Education Act (IDEA) allows a relative the child is living with to act as a "parent" for special education decisions.
  - 34 CFR § 300.30(a)(2) includes in the definition of parent: "a foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;"
  - 34 CFR § 300.30(a)(4) includes in the definition of parent: "an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare"
- ▶ If the child is receiving or needs special education services, the child should have an Individualized Education Plan (IEP). If the child does not qualify for an IEP but requires some educational accommodations due to a disability,

## Every Student Succeeds Act (ESSA)

Students who are in the custody of child welfare will qualify for ESSA protections under this law. These protections include:

- ▶ The right to remain in their school of origin upon entry into care and any time they move placement if it is in their best interest.
- ▶ If it is in their best interest to remain in their school of origin, transportation to that school.
- ▶ If it is in their best interest to move schools, immediate enrollment even without normally required records.

the child may need a 504 Plan. Both of these plans require evaluation and annual meetings that a kin caregiver should participate in.

- ▶ In certain circumstances the kin caregivers will be granted authority to make special education decisions for the child.
  - If kin caregivers do not have authority to make special education decisions, they should still share their thoughts and insights with the child's special education team.
  - If kin caregivers have been appointed as the EDM for special education decisions, the caregiver should:
    - ▶ If needed, consent to the special education evaluation
    - ▶ Attend IEP meetings and provide input
    - ▶ When in agreement with the education team's plan, sign the child's IEP
    - ▶ Challenge the IEP team decision, if not in the best interest of the child
    - ▶ Review the child's educational records
    - ▶ Regularly communicate with the child's teacher and team
    - ▶ Advocate to voice concerns about the child's education
    - ▶ Advocate for resources that will help the student achieve academic success
    - ▶ Request IEP/team meetings if there are unaddressed concerns

# EDUCATION DECISIONS: THE STUDENT IS LIVING WITH KIN NOT IN CHILD WELFARE CUSTODY

## Consent Forms

- ▶ State or local education agencies and school districts may have consent forms that, upon completion and submission, allow a kin caregiver to:
  - Enroll the student in school;
  - Become the legal contact for the school regarding, but not limited to, truancy and discipline;
  - Make school-based decisions about, but not limited to, special education; and
  - Give medical approval for health care administered by the school.
- ▶ These forms could be time-limited, so may need periodic updating and resubmission.

## Day-to-day Education Decisions

- ▶ Depending on the school district policies and/or nature of the legal authority the caregiver has, a kin caregiver may be able to make day-to-day education decisions without the parent's permission, including:
  - ▶ Sign permission slips for field trips or participation in extracurricular activities;
  - ▶ Authorize a child to stay home from school when necessary;
  - ▶ Participate in planning for re-entry following any disciplinary action;
  - ▶ Make other time-sensitive decisions to ensure the child has as normal a school experience as possible;
  - ▶ Request academic support services, such as tutoring.
- ▶ When making these decisions, kin should consider:
  - The child's best interest;
  - The child's age, maturity, and developmental level;
  - The potential risk of the child's participation in the activity;
  - The child's behavioral history; and
  - Input of the child's parent, when appropriate and practical.

## McKinney-Vento

Students who are not in the legal custody of the child welfare system and are living with kin may qualify for McKinney Vento services.

Under this law, children who lack a "fixed, regular, and adequate nighttime residence" qualify for services. For a child living with a kin caregiver, this qualification may depend on the intended or unknown duration of the stay. A child who qualifies may receive the following services:

- ▶ Immediate enrollment in a new school even without normally required documents.
- ▶ Continued enrollment in their school of origin if it is in their best interest, with transportation if necessary.
- ▶ Access to academic and extracurricular activities.
- ▶ Free school meals.

## School Stability & Enrollment

- ▶ Students not in the legal custody of the child welfare system who live with kin may qualify for McKinney Vento services. Under this law, children who lack a "fixed, regular, and adequate nighttime residence" qualify for services such as the right to remain in the same school and receive transportation. For a child living with a kin caregiver, this qualification may depend on the intended or unknown duration of the stay.
- ▶ If a child needs to be enrolled in a new school, some jurisdictions may require the kin to sign a delegation of power, education consent form, or similar document for enrollment into school, however other schools may require documentation of legal custody or guardianship. This requirement will depend on the laws and rules of the state, county, or even school district.
- ▶ It is important to note that if there are any disputes about transportation or school placement, the child should be allowed to

remain in their school of origin until the dispute is resolved.

## Significant Education Decisions

- ▶ Beyond day-to-day decisions, the EDM should make education decisions. This is likely to be the child's parent, but in some cases a kin caregiver could make decisions if a consent form has been completed or they have been appointed as a surrogate parent (by the court or school) for a child receiving special education services.
- ▶ Types of general education decisions informal kin caregivers could make include:
  - Enrollment in a magnet or charter program;
  - Course selection;
  - Discipline proceedings; or
  - Additional supports and services.

## Special Education Decisions

- ▶ A kin caregiver may be able to act as the parent for purposes of special education if the birth parents' rights have been limited or they are not attempting to act as the "parent" for purposes of special education. The Individuals with Disabilities Education Act (IDEA) allows a relative the child is living with to act as a "parent" for special education decisions.

- 34 CFR § 300.30(a)(4) includes in the definition of parent: "an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare"
- ▶ A kin caregiver may request, in writing, an evaluation to determine if the child qualifies for special education services
- ▶ If a kin caregiver is acting as a parent or has formal EDM authority, the expectation is to:
  - Consent to the special education evaluation to help determine the child's needs, if needed;
  - Attend IEP meetings and provide input;
  - Sign the child's IEP, when in agreement with the education team's plan;
  - Challenge the IEP team decision, if not in the best interest of the child;
  - Review the child's educational records;
  - Regularly communicate with the child's teacher and team;
  - Advocate to voice concerns about the child's education;
  - Advocate for resources that will help the student achieve academic success;
  - Request IEP/team meetings if there are unaddressed concerns.

# Kin Caregiver Education Advocacy Tipsheet:

## Students *in Custody* of Child Welfare



### with caseworkers

- ▶ Develop a strong working relationship with the child's caseworker or any other child welfare staff that may be able to help meet or advocate for the child's educational needs.
- ▶ If the child is enrolling in a new school, alert the caseworker if the child's educational records are not provided to the new school timely.
- ▶ Ask to receive the child's current and past education information including report cards, IEPs or 504 plans, and attendance records.
- ▶ Ask what authority you have to make education decisions and who has education decision-making rights as the education decision maker, if it is not the parent(s).
- ▶ Communicate any transportation needs or challenges.
- ▶ If a school change is being considered, provide input on the impact of the change.



### with courts

- ▶ Report education updates or concerns to the court.
- ▶ Provide as much educational information as possible, including attendance, discipline, and grades.
- ▶ Alert the court to any school stability concerns such as if the child should stay in their same school or transportation needs.
- ▶ Ask the court to order education services or supports that would benefit the child, such as tutoring or mentoring.



### at home

- ▶ Review any education information that comes home with the child. Use any online portals to access information such as assignment completion, grades, and attendance.

- ▶ If able, assist the child with homework when needed.
- ▶ Assess if the child needs any additional academic support outside of school time such as tutoring.
- ▶ Prepare for potential behavior changes as the child adjusts to new environments.
- ▶ Learn about the child through school records if possible or by asking the child to share any past school experiences or educational or behavioral struggles in school.
- ▶ Engage the child in their education and discuss the school experience by asking questions, such as:
  - "Are you feeling safe and supported at school?"
  - "Are you having a problem with anything at school?"
  - "Do you get any special help at school?"
- ▶ Listen to the what the child shares about how school is going, including their anxiety or struggles.
- ▶ The more you know about any education challenges the better position you will be in to support and advocate for the child.



### in school

- ▶ Ensure the child is enrolled and attending school from the moment they are placed, and if not alert the caseworker.
- ▶ Be sensitive to not "over share" private information about the child with the school.
- ▶ Provide the child's teacher(s) relevant information to meet the child's educational needs, encourage participation, and support the child.
  - For example, it may be helpful for the school to know which days the child has visits with their parents and if the child will require additional emotional support the following day at school.

- ▶ Regularly communicate with the child's teachers and special education team (if relevant) and form positive working relationships with other school personnel such as counselors and administrators.
- ▶ Seek access to online portals to stay up to date with the child's educational and social progress, and request academic and behavioral updates.
- ▶ If the child is exhibiting concerning behaviors in school, participate in a functional behavioral assessment and a positive behavior intervention plan (PBIP).
- ▶ If the child is enrolling in a new school, tour the school with the child to help with the child's transition.

## Kin Caregiver Education Advocacy Tipsheet:

### Students *Not* in Custody of Child Welfare



#### at home

- ▶ Review any educational information that comes home with the child, Use any online portals to access information, such as assignment completion, grades, and attendance.
- ▶ If able, assist the child with homework when needed.
- ▶ Assess if the child needs any additional academic support outside of school time such as tutoring.
- ▶ Prepare for potential behavior changes as the child adjusts to new environments, different developmental milestones, or responses to trauma.
- ▶ Learn about the child through school records if possible or by asking the child to share any past school experiences or educational or behavioral struggles in school.
- ▶ Engage the child in their education and discuss the school experience by asking questions, such as:
  - “Do you have the same assignments/ homework as your classmates?”
  - “Are you having a problem with anything at school?”
  - “Do you get any special help at school?”
- ▶ Listen to what the child shares about how school is going, including their anxieties or struggles.
- ▶ The more you know about any educational challenges the better position you will be in to support and advocate.



#### in school

- ▶ Ensure the child is attending school in your neighborhood or in the parent’s district.
- ▶ If the child is continuing to attend the school in their parent’s district, ask the school about the child’s McKinney Vento eligibility to receive transportation and other services.
- ▶ If the child is enrolling in a new school, alert the previous school if the child’s records are not provided to the new school.
- ▶ See if the child is eligible for free school meals (for more information: <https://www.gksnetwork.org/wp-content/uploads/2023/07/School-Meals-Fact-Sheet.pdf>).
- ▶ Ask to receive information on the child’s education, including report cards, IEP or 504 plans, and attendance records.
- ▶ Seek clarification about what authority you have to make certain education decisions and who has education decision-making rights if it is not the birth parent(s).
- ▶ Provide information to the child’s teacher(s) to meet the child’s educational needs, encourage participation, and support the child.
- ▶ Regularly communicate with teachers and form positive working relationships with other school personnel.
- ▶ Seek access to online portals to stay up to date with the student’s achievements, missing assignments, and other vital communication with teachers.
- ▶ Request academic and behavioral updates and provide behavioral information relevant to the child’s school participation to the school to help them support the child at school.
- ▶ If the child is exhibiting concerning behaviors in school, participate in a functional behavioral assessment and a positive behavior intervention plan (PBIP).
- ▶ If you’re worried that the child in your care is slow to develop skills typical for their age, ask your local school district about Child Find.
- ▶ If the child is enrolling in a new school, tour the school with the child to help with their transition.
- ▶ For more tips: <https://www.gksnetwork.org/resources/getting-the-child-you-love-the-educational-support-they-need/>



## older youth

- ▶ Work with the school to understand the child's path to high school graduation, including any alternative paths to graduation. If they have moved schools, ask about full or partial credit transfers or waivers.
- ▶ Explore with the child what they would like to do after high school – vocational training, community college, four-year college, work?
- ▶ Ask the school if the child would qualify to have testing (ACT or SAT) or college application fees waived.
- ▶ If the child wants to go to college, work with them to complete the financial aid form, the Free Application for Federal Student Aid (FAFSA). Ask your school if the child is considered an unaccompanied youth experiencing homelessness, if so they do not have to provide parental income information or signatures on the FAFSA.
- ▶ Identify any local or school-provided programs that assist with workforce development or college readiness.



## early childhood

- ▶ Consider enrolling the child in a HeadStart or Early HeadStart program if you are eligible. These free programs promote school readiness for infants, toddlers, and preschoolers.
- ▶ If you're worried that the young child in your care is slow to develop skills, such as walking, talking, or other developmental milestones typical for their age, ask your local school district about free testing.
- ▶ If after assessment the child is identified as having developmental delays, work with service providers to create a plan for early intervention to provide services and support. This support may be free or based on your ability to pay.
- ▶ Work with local agencies to get the child enrolled in preschool programs before starting kindergarten. If the child is determined to be McKinney Vento eligible, the child could receive free public preschool.
- ▶ For more tips: <https://www.gksnetwork.org/wp-content/uploads/2023/01/Education-January-2023-FINAL.pdf>