

# FACT SHEET

## Grandparents and Other Relatives Raising Children: Access to Education



### INTRODUCTION

According to the U.S. Census 2000, more than six million children across the country are living in households headed by grandparents or other relatives. In many of these households, the grandparents and other relatives are the primary caregivers for children whose parents are unable or unwilling to care for them due to parental substance abuse, incarceration, HIV/AIDS, death and other family and community crises.

In addition, the U.S. Census 2000 found that nearly 5.8 million grandparents are living in households with one or more of their own grandchildren under the age of 18. More than 2.4 million of these grandparents are primarily responsible for meeting the basic needs of these children. These dedicated caregivers have stepped forward to care for their younger kin – often at tremendous personal sacrifice.

Public policies and programs in many areas of the country have not kept pace with the increase in the number of these families and these families' diverse needs for supports. The needs include assistance (1) accessing educational enrollment; (2) obtaining necessary immunizations to enroll the children; (3) obtaining special education services; and (4) accessing parental activities. Schools can also reach out to these caregivers by (5) offering support groups at their facilities.

Many of these caregivers are raising children “informally” without a legal relationship, such as legal custody or guardianship, and consequently can have greater difficulty accessing educational services than caregivers with a legal relationship. Many relative caregivers who raise children informally do so because, although they sense that the arrangement is permanent, they hope that the parents will be able or willing to raise the children at some point in the future. For these caregivers to establish a legal relationship with the children they raise, they must bring a legal proceeding against the parents, one of who is their relative. These proceedings are usually lengthy and emotionally difficult for everyone involved. The court must reach conclusions about the fitness of the parents and the “best interests” of the child. These conclusions – and the entire process — can strain family relationships, rather than keep the family together.

### (1) EDUCATIONAL ENROLLMENT

Many states do not require a caregiver to have legal custody or guardianship to enroll a child in school, but do have residency requirements that require children to be in the school district for a “legitimate” purpose, i.e., not solely to attend school. Some local school districts in turn require caregivers to show documentation of legal custody or guardianship in order to enroll the children. The districts require this proof to prevent families from abusing the system by shopping for a particular school and having their children live in that district during the school week or school year solely in order to attend that school. However, the problem with requiring

proof of legal custody or guardianship is that, in addition to preventing abuses, it unjustly prevents children who are being raised informally by relative caregivers from attending school.

Some states have developed ways to balance the concerns of school systems and families:

#### ◆ California (CA Family Code at sections 6550 and 6552):

- California has had an educational and medical consent law since 1994.
- It allows a relative caregiver without legal custody or guardianship of a child to submit an affidavit to enroll the child in school and to consent to medical treatment on his or her behalf.
- An important aspect of this law is that the signatures of the child's parents are not required on the affidavit, which is crucial in those instances where the parents cannot be found.
- The law includes the form for the affidavit at section 6552.
- This form includes a note to school officials, which addresses the concern that some individuals could abuse this law to shop for schools.
- California school districts have no reporting requirements under this consent law, so statistics regarding its success are unavailable.
- Anecdotally, the law is working well for children, caregivers, and school districts.
- Other states that have educational consent laws include *North Carolina* (NC Code at section 115c-366) and *Delaware* (DE Code at Title 14, section 202).

#### ◆ Another approach is used in Indiana (IN Code 20-8.1-6.1-1):

- Indiana has had a law for several years that the “legal settlement” of a student being supported, cared for and living with another person is the school attendance area of that person.
- Local school districts cannot require guardianship or legal custody unless facts are in dispute and the school district believes that (1) the child is living with another person primarily in order to attend a particular school and (2) the students' parents are able to support the student.
- If the facts are disputed and the school therefore requires guardianship or legal custody, the child may be enrolled on the day that papers are filed with the court to obtain guardianship or legal custody.

#### ◆ A third approach is used in Illinois:

- The Illinois Department on Aging has “tip sheets” for relative caregivers, including one on how to enroll children in school.
- The caregivers can take these sheets with them when enrolling children and thereby educate any local school administrators who may not know the requirements.

- The sheet cites a statement from the Illinois State Board of Education: Illinois law does not provide any specific requirements for proving residence. It is a question of fact whether a child is actually “in” the district and not in his or her parents’ custody or control. A district cannot require legal guardianship. Some districts request, but cannot require, written confirmation from the parent or legal guardian that the child is in the actual custody and control of a non-parent or non-guardian. Districts may request, but not require a statement or affidavit from the non-parent or non-guardian.

## (2) NECESSARY IMMUNIZATIONS

- In most states, immunizations are necessary in order to enroll a child in school.
- The *California* consent law is unique in that it combines the authority to enroll a child in school with the authority to consent to medical treatment, including immunizations.
- About half of the states have separate medical consent laws, which differ in various ways. Differences include the types of treatment the caregiver can consent to (immunizations only, additional medical care, dental care or psychological care), whether there must be a written document to confer consent authority, and whether consent can be accomplished orally.
- The following four jurisdictions are among those with laws that allow a caregiver to access comprehensive types of treatment (immunizations, other medical, dental and psychological) on behalf of the child:
  - *District of Columbia* (DC Code at section 16-4901);
  - *Delaware* (DE Code at Title 13, section 707);
  - *Pennsylvania* (PA Code at Title 11, sections 2511-2513); and
  - *Texas* (TX Family Code at sections 32.001 and 32.101).

## (3) SPECIAL EDUCATION SERVICES

- According to federal law, schools should be including relative caregivers in the process of developing Individual Education Plans (IEPs) for children with disabilities.
- The Individuals with Disabilities Education Act (IDEA) is the primary source of federal money for special education services, and the U.S. Department of Education regulations implementing the IDEA define “parent” to include relative caregivers.
- The definition of “parent” is found in Title 34 of the Code of Federal Regulations (CFR) at section 300.20(a):
 

The term parent means — . . . (3) A person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child’s welfare) . . .

## (4) PARENTAL ACTIVITIES

- According to federal law, schools should be including relative caregivers in parental activities.
- Title I of the federal Elementary and Secondary Education Act (ESEA) provides funds to schools to offer “parental activities,” and the ESEA defines “parent” in Title 20 of the US Code at section 8801(22) to include relative caregivers:
 

“parent” includes a legal guardian or other person standing in loco parentis.

- The *Ohio* Department of Education developed a manual for grandparents and Title I coordinators in order to ease grandparents’ inclusion in parental activities and to involve them in their grandchildren’s education.

## (5) CAREGIVER SUPPORT GROUPS

- Support groups for relative caregivers provide a useful forum for caregivers to share problems, joys, and resource information.
- Schools can contribute their facilities, provide notices about meetings, have teachers, counselors and administrators speak to the group about educational services, and offer these groups as resources.
- Generations United (GU) received its second contract from the Center for Mental Health Services of the U.S. Department of Health and Human Services to continue its program to improve access to mental health services for relative-headed families. In partnership with the Brookdale Foundation Group, GU has been replicating Brookdale’s Relatives As Parents Program (RAPP) in eight four mental health agencies around the country.
- The first contract concluded with the successful replication of RAPP in four mental health agencies. Each of these agencies is continuing to provide services to the families. One of the agencies, Mid-Erie Counseling and Treatment Services, is physically located in three public schools in the *Buffalo, New York* area and is offering support groups and counseling services to the relative caregivers. Mid-Erie works with the schools to reach out to the families and offer the services on school grounds.

## CONCLUSION

With the growing number of grandparents and other relatives raising children in this country, many states are devising innovative ways to help them access educational services for the children in their care. States that do not have similar policies might want to explore developing one and can use those already existing as a starting point.

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For further information, please contact: Generations United, 1333 H St., NW, Suite 500W, Washington, DC 20005, (202) 289-3979, Fax: (202) 289-3952, e-mail: [gu@gu.org](mailto:gu@gu.org). The GU web site at [www.gu.org](http://www.gu.org) contains additional information about grandparents and other relatives raising children.

**Generations United** (GU) is the national non-profit membership organization focused solely on promoting intergenerational public policies and programs. GU was founded in 1986 by the Child Welfare League of America, the National Council on the Aging, the Children’s Defense Fund and AARP and now includes over 100 national, state and local organizations representing more than 70 million Americans.

