

## Who Can Give Consent for Educational Decisions?

School personnel must determine the appropriate person(s) to make educational decisions on behalf of the child. Those individuals have a right to receive notice, give or revoke consent, file formal complaints, request mediation, file for a due process hearing, give or deny permission for release of records, etc.

In Kansas, “parent” is defined as:

- A natural (biological) parent;
- An adoptive parent;
- A person acting as a parent;
- A legal guardian;
- An education advocate; or
- A foster parent, if the foster parent has been appointed the education advocate of an exceptional child. KSA 72-962(m); 34 CFR 300.30.

## Who Are Education Advocates?

An education advocate (“surrogate parents” in Federal law) is appointed to act on behalf of the child when parents are unknown, unavailable, or parental rights have been severed. The State Special Education for Exceptional Children Act gives the Kansas State Board of Education (KSBE) the authority to appoint education advocates to act on behalf of the child, if parents are unknown, unavailable, or parental rights have been severed. The KSBE has delegated this responsibility to a Kansas parent advocacy and training organization called Families Together.

In Kansas, a foster parent must receive the required training and be appointed by the State Board of Education, through Families Together, as an education advocate to act as a parent in making educational decision for a child. KSA 38-1513(a).

## Department for Children and Families

The Kansas Statute at KSA 38-2218 states that when the Department for Children and Families (DCF) staff determines that a child in DCF custody appears to be a student with exceptionality who may require special education services and the parents are unknown, unavailable, or have their rights terminated, DCF must:

- Document in the case record that the parents are unknown, unavailable, or their rights have been terminated; and contact Families Together within three business days to request an education advocate be appointed.

## Sharing Information

As part of the Child in Need of Care case, the following agencies and people may freely exchange information:

- Department for Children and Families ;
- Commissioner of Juvenile Justice;
- Law enforcement agency receiving the report;
- Members of a Court-appointed multidisciplinary team;
- Entity mandated by Federal or State law to investigate child in need of care cases;
- Military enclave or Indian tribal organization authorized to investigate such cases;
- County or district attorney;
- Court services officer who has taken a child into custody;
- Guardian ad litem appointed for a child alleged to be in need of care;
- An intake and assessment worker; and
- Any community corrections program that has the child under Court-ordered supervision.

**Note that the list does NOT include educational agencies or school personnel.**

However, educational institutions, to the extent necessary to enable them to provide the safest possible environment of their students and employees, must have access to information received by the Department of Children and Families. This access to records is limited to information reasonably necessary to carry out their lawful responsibilities to maintain their personal safety and that of others in their care; or to diagnose, treat, care for, or protect a child alleged to be in need of care. Accordingly, educational agencies may “receive” records, but may not provide educational records to these agencies except as provided by FERPA. KSA 38-2212(c).