



*Delaware's Legal Handbook for
Grandparents & Other
Relatives Raising Children*

A Legal Resource
for People Caring
for the Children
of a Relative



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A Legal Resource for People Caring for the Children of a Relative

Introduction

The responsibility of caring for a relative's child touches every aspect of the caregiver's life. One of the most important concerns that weaves throughout all other issues for the caregiver is trying to provide stability in a young life that has experienced a great deal of instability. One step toward stabilizing the child's life is to know, understand, and be able to access legal options to the caregiver through the state court system.

This is the intention of *Delaware's Legal Handbook for Grandparents & Other Relatives Raising Children*, to give caregivers a little background on some of the legal circumstances that may become part of their lives. That background and the knowledge of how the system works will hopefully ease caregivers' concerns, since they will know their options and what to expect. *Delaware's Legal Handbook for Grandparents & Other Relatives Raising Children* does not provide all information there is on any topic in this book.

Under no circumstances should *Delaware's Legal Handbook for Grandparents & Other Relatives Raising Children*, be considered legal advice. Delaware Health and Social Services Division of Services for Aging and Adults with Physical Disabilities and the Community Legal Aid Society of Delaware intend this document as a beginning point and not legal counsel.

Legal Help Link is a main number that the public can call to contact the three legal service providers in Delaware – Community Legal Aid Society, Inc; Delaware Volunteer Legal Services, Inc; and Legal Services Corporation of Delaware, Inc. These three legal assistance organizations offer their services at no charge for eligible clients. Besides other factors, eligibility also depends on the particular area of legal assistance needed. Legal Help Link assures that callers are referred to the appropriate legal services organization or to a private attorney for assistance. For detailed legal advice, you can contact the Legal Help Link at **(302) 478-8850** or **1-800-773-0606**.

Delaware's Legal Handbook for Grandparents & Other Relatives Raising

Children is set up to make information as easy as possible to use. The Contents page lists the Chapters. The beginning of each Chapter lists the information in that Chapter and the specific number of the question where that information can be found. Cross-references are in the text so that a question that just touches on an area will refer the reader to where the subject is covered in more depth. The Glossary will help you understand legal terms. Chapter 4, Third Party Custody and the Dependency/Neglect Process, contains more legal terms than any other chapter. Therefore, some terms used in Chapter 4 are listed at the beginning of the section to make the reading easier. Those terms are also in the Glossary.

After the Glossary, you will find a Resource List of the various agencies and their phone numbers. These agencies may be able to help you in your search for legal answers to your questions and services for your grandchild.

The section following the Glossary is Legal Forms, which have been mentioned in the text of *Delaware's Legal Handbook for Grandparents & Other Relatives Raising Children*. The final section is the Index, which will help you to locate exactly what you are trying to find.

Relative caregiving knows no boundaries. Relative caregivers can be great grandparents, grandparents, aunts, uncles and cousins. To acknowledge the variety of caregivers and gender of the children they care for, you will find a variety of terms used for the caregiver and also for the gender of their children.

Our hope is that caregivers will find this document useful and that those who support them will find it beneficial in their work for grandparents and relative caregivers. If you have comments or suggestions, please send an e-mail to the Division of Services for Aging and Adults with Physical Disabilities at DSAAPDinfo@state.de.us or call the Division at **1-800-223-9074**.

1 Grandparent Visitation

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General Visitation Statute — Title 13 Delaware Code, Chapter 7
Web address: <http://www.delcode.state.de.us/>

Introduction

You may find that your family's relationships are not as open and friendly as you would like, but you have a relationship with your grandchildren and would like to continue visiting. If you wish to visit with your grandchildren, you should first contact the children's custodian. Parents are considered to be joint natural custodians over their children, but if the Family Court has removed the children from their parents' custody, you should contact the person given custody rights by the Family Court. If your grandchildren's custodian is not willing to allow you to visit with your grandchildren, you may file a visitation petition (see Forms) in the Family Court. This chapter is about the petition filing process in Delaware and the use of Visitation Centers.

Other relatives may apply for visitation rights under the general visitation statute, Title 13 Delaware Code, Chapter 7. You can access the Delaware law on the Internet at <http://www.delcode.state.de.us/> or at your county courthouse resource center.

Filing a Petition

1. Who has standing (legal position) to file a visitation petition in the Family Court?

Natural parents and the parents of natural parents (the natural grandparents) have standing to file a Family Court petition for visitation with a child. Adoptive parents and the parents of adoptive parents (the adoptive grandparents) also have standing to file a Family Court petition for visitation with a child. Parents who have lost their parental rights through a termination of parental rights proceeding do NOT have standing to file a petition for visitation. This also applies to the parents of parents who have had their parental rights terminated.

2. What is the role of Family Court?

Delaware has statutes (laws) that govern visitation and guide the decisions of the Family Court. Under those statutes, a grandparent may visit a grandchild in most circumstances. The Family Court is not allowed to grant visitation to a grandparent when the parents of a child live together as husband and wife and both parents object to visitation between the grandparent and that child. In all other circumstances, the Court will grant visitation to a grandparent if the grandparent shows that visitation is in the best interest of the child (see Glossary).

3. Where do I go to file a visitation petition?

The grandparent must file a visitation petition in the Family Court in the county where the child lives.

Family Court locations:

Kent County	Dover	(302) 739-6500
New Castle County	Wilmington	(302) 255-0300
Sussex County	Georgetown	(302) 856-5601

Both Kent and Sussex counties' Family Court have resource centers where Family Court staff work to help people find, fill out and file the appropriate papers.

The New Castle County Courthouse Self-Help Center serves the needs of litigants of all of Delaware's State Courts, including Family Court.

4. Is there a fee to file a visitation petition?

At the date of the publication of *Delaware's Legal Handbook for Grandparents & Other Relatives Raising Children*, the filing fee for a visitation petition is \$50. If the petitioner has little or no income and cannot afford the filing fee, the petitioner may file a fee waiver application.

5. What is mediation?

Mediation is a process which Family Court uses to help people settle disagreements before they are heard by a judge. It is often the case that people involved in a visitation disagreement can resolve their differences through discussion and compromise. The Court's mediators are trained to assist in that process. A mediator from the Court will meet with the petitioner and the child's custodian(s) to try to work out a visitation schedule. If the parties can agree to a visitation schedule, they will sign a written agreement. The mediator will deliver it to the judge or administrator who will enter the agreement and the visitation schedule as a court order.

6. What happens if the mediation process fails?

A dispute that is not settled through mediation is scheduled for a hearing. Hearings in the Family Court are conducted by judges and commissioners (see Glossary). Although there are differences in the way a party may appeal the decision of a judge or a commissioner, the authority of each of these judicial officers is very similar.

7. What if one of the parties violates the visitation order?

Once an order requiring visitation is entered, that order must be obeyed by all of the parties. If one of the parties disobeys the order, another party may return to the Family Court and ask that the violating party be held in contempt of court (see Glossary). To ask the Court to hold someone in contempt a Petition for a Rule to Show Cause must be filed (see Forms). In this petition, you must state the way in which the other party has disobeyed the order. The Family Court will hold someone in contempt as a way of forcing that person to obey the order.

Visitation Centers

8. What are Visitation Centers?

In cases where a parent has committed acts of domestic violence against a child, or against the parent or custodian of the child, the Family Court may order that visitation between the offending parent and the child take place in a professionally supervised environment. These places, called Visitation Centers, are located throughout the state of Delaware (see Resources for contact numbers and locations). The Visitation Centers are located at certain State Service Centers. A center staff person supervises visits that take place in a Visitation Center.

The Visitation Center may also be used to transfer the child between the custodian and the person with visitation rights. This eliminates contact between the two parties and is often used when domestic violence is an issue.

Visitation Centers are open during regular business hours and by appointment on weekends and holidays.

9. Is there a fee to use a Visitation Center?

Yes, there is a charge for use of the Visitation Centers. It is a sliding-scale fee based on income. Unless the Court orders otherwise, the parent visiting the child pays this fee.

2 Reporting Child Abuse or Neglect

For Information On:

Abuse and/or neglect
Anonymous reporting
Division of Family Services
Foster care placement
Placement with a relative
Reporting
Response time
Safety of children

See Question #:

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Delaware Law – <http://www.delcode.state.de.us/>

Introduction

If you are concerned that your grandchild or minor relative is being neglected or abused by his parents or custodian, help is available. In some instances, it may not be wise to confront the parents or custodian on your own, so please contact the Division of Family Services. If you know or reasonably suspect a child may be abused or neglected, you are required by law to report it to the Division of Family Services. The 24-hour, toll-free Report Line number is **1-800-292-9582**. The Division of Family Services also investigates when children are at risk of abuse or neglect. This chapter explains the role of the Division of Family Services in protecting Delaware's children.

Contacting the Division of Family Services (DFS)

1. What is the Division of Family Services?

The Division of Family Services is the state agency responsible for investigating abuse and neglect of children. If you suspect that a child is being abused or neglected, you are required by law to call the Division of Family Services' 24-hour, toll-free Report Line (**1-800-292-9582**) and make a report. You will need to provide basic information about what is happening or has happened and the whereabouts of the child. You will also need to provide detailed information about the condition of the child. Include any information that you have about the parents or other adult caretakers.

2. Can the call to the Division of Family Services (DFS) be made anonymously?

The Division accepts anonymous calls. Also, it is the policy of the Division to not reveal the name of any person who makes a report. It is helpful for the Division to know the name and phone number of the caller in case additional information is needed. By law, anyone who makes a report in good faith shall have immunity from civil or criminal liability.

3. What does abuse and/or neglect of a child mean?

Title 16 of the Delaware Code defines abuse as "any physical injury to a child by those responsible for the care, custody and control of the child, through unjustified forces as defined in §468 of Title 11, emotional abuse, torture, criminally negligent treatment, sexual abuse, exploitation, maltreatment or mistreatment." Neglect, as defined in Title 16 of the Delaware Code, means "the failure to provide, by those responsible for the care, custody, and control of the child, the proper or necessary: Education as required by law; nutrition; or medical, surgical or any other care necessary for the child's well-being." You can read the law on the Internet at <http://www.delcode.state.de.us/> or at your county courthouse resource center.

4. How quickly will the Division of Family Services (DFS) respond to a report of abuse or neglect?

DFS will make a decision about the response time based on factors such as the age of the child and the seriousness of the allegations. Situations needing urgent response will be responded to immediately, up to within 24 hours. Other situations will be responded to within 10 calendar days.

What the Division of Family Services Does

5. What does the Division of Family Services' investigation process include?

The Division of Family Services' investigation process includes, but is not limited to:

- conducting interviews with the children and/or observing children
- interviewing the parents or other adult caretakers
- obtaining information from a minimum of two other sources who have knowledge about the child, such as the child's physician or schoolteacher
- obtaining criminal background information about the adult caretakers.

6. What happens to the children if the Division of Family Services (DFS) finds they are being mistreated?

If DFS determines that the children are not safe under the circumstances, a social worker will try to develop a plan with the parents to fix the problem. If such a plan is not possible, the Division will seek custody of the children for placement in a safe environment such as a foster home.

7. Will the Division of Family Services (DFS) allow the children to stay with any relative?

When it becomes necessary to remove a child from the home, DFS will try to find a relative caregiver. Before permitting the children to live with you as a relative caregiver, DFS will assess everyone living in your home. They will be looking for any past involvement with DFS. They will also determine if any members of your household have a criminal record. DFS will also inspect the home to make sure it is physically adequate. Among the things DFS will be looking at are adequate beds, food, and potential health hazards.

What the Division of Family Services Does (cont.)

8. My grandchild was placed in foster care without my knowledge. Why didn't the Division of Family Services (DFS) notify me, a concerned relative?

While DFS attempts to explore the possibility of placing a child with a relative before placing a child in foster care, parents do not always give DFS information about family members. So, if you know the child has already been removed from the home, placed in foster care, or that DFS is otherwise involved with the family, call DFS and tell them you are willing to have the child live with you.

3 Protection from Abuse Orders

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Introduction

You or the child for whom you are caregiver may be a victim of abusive conduct from a relative or a member of the immediate household. It may be necessary for the threatened party to apply to Family Court for a Protection From Abuse Order (PFA).

This chapter will explain the nature of a Protection From Abuse Order, to whom it applies, and how to obtain one from the Family Court.

PFA Defined/Who Can Apply

1. What is a Protection From Abuse Order?

A Protection From Abuse (PFA) Order is a civil protective order to prevent violence between family members and to enable victims of domestic violence to live without abuse. Through the PFA law, the abuser can be ordered to stay away and not have any contact with the victim (see Forms).

2. Who is protected by the Protection From Abuse Act?

In general, the Protection From Abuse (PFA) Act protects a victim of domestic violence. In Delaware, the people protected by the PFA include:

- Former and current spouses;
- A man and woman living together but not legally married (at the time of the abuse) with or without a child in common;
- A man and woman living separate and apart with a child in common; and
- Family members, including mother, father, mother-in-law, father-in-law, brother, sister, brother-in-law, sister-in-law, son, daughter, son-in-law, daughter-in-law, grandfather, grandmother, grandson, granddaughter, stepfather, and stepmother.

3. Who is NOT protected by the Protection From Abuse (PFA) Act?

There are several types of relations that are not covered by the PFA. Two specific types of relationships that are frequently asked about but are NOT covered are:

- A boyfriend and girlfriend who have never lived together and do not have any children in common; and
- Same-sex relationships

Applying for a PFA Order

4. Where can I get a PFA?

You, the victim, must file a Petition for Protection From Abuse Order with the Family Court. You can file the petition in any county where one of these conditions apply:

- Where you live
- Where the accused offender lives
- Where the abuse took place
- Where you are temporarily located to avoid the domestic abuse.

Family Court

New Castle County

500 King Street
Wilmington, DE 19801
(302) 255-0300

Kent County

400 Court Street
Dover, DE 19901
(302) 739-6500

Sussex County

22 The Circle
Georgetown, DE 19947
(302) 856-5601

5. Where do I go in the Family Court?

Go to the Intake Unit in the county courthouse. All PFA petitions are handled in the Intake Unit to give petitioners more privacy.

6. How do I prove that I am being or have been abused?

Applying for a PFA Order (cont.)

In order to obtain a Protection From Abuse (PFA) Order from the court, the victim must prove the offender abused him or her in at least one of the following ways:

- Intentionally or recklessly caused or tried to cause the victim physical injury or sexual offense;
- Intentionally or recklessly placed or attempted to place the victim in reasonable fear of physical injury or sexual offense;
- Intentionally or recklessly damaged, destroyed, or took the property of the victim;
- Acted in a course of alarming or distressing conduct, in a manner likely to cause the victim fear or emotional distress, or provoked a violent or disorderly response from the victim;
- Trespassed on or in the property of the victim;
- Child abuse;
- Unlawful imprisonment, kidnapping, interference with custody and coercion;
- Any other conduct which a reasonable person under the circumstances would find threatening or harmful.

7. How can I prove to the Court that these abuses happened and that the abuser caused them?

You may testify yourself concerning the abusive act(s) and/or you may call witnesses to testify. The Court will listen to testimony, which are statements made in the courtroom by witnesses. The Court will listen to witnesses explain what they saw or heard. For example, a neighbor who overheard an argument or threat can testify about what he or she heard. A police officer who saw a bruise or cut can testify about what he or she saw.

8. What relief can I request when filing the petition?

There is broad relief available to a victim (which the victim **MUST REQUEST** when filing the petition) to effectively intervene and help end the abuse. The final order can:

- Forbid the offender from committing any other act of abuse against the victim;

- Forbid the offender from contacting the victim by mail, phone, or any other means, including third-party contact;
- Forbid the offender from coming within 100 yards of the victim, the victim's residence, or the victim's workplace;
- Grant the victim exclusive use and possession of the parties' residence, regardless of how the property is titled (this does not affect ownership of the property);
- Award the victim temporary possession of certain personal property (for example, cars, keys, checkbooks);
- Award temporary custody of the parties' children to the victim and provide for supervised visitation with the perpetrator;
- Order the offender to pay child support or spousal support;
- Award the victim damages for losses suffered as a direct result of the domestic violence (for example, property that was destroyed, medical costs, loss of earnings);
- Forbid the offender from transferring, putting conditions on the use of the property, or hiding any property in which the victim has an interest;
- Require the offender to attend counseling;
- Require the offender to give any guns in his or her possession to the police; and/or
- Provide any other relief the Court decides is reasonable.

9. I need protection as soon as possible. What can I do?

When you file the Petition for Protection From Abuse Order, you can ask the Court for an emergency order, also called an ex parte order. It can take an hour or two to get into a courtroom. The victim must explain to the Court why he or she needs an emergency order. If the Court feels there is sufficient reason, it will issue a temporary emergency order that day.

Emergency PFA

If the Court issues the temporary emergency order, a full hearing on the petition will be held within 10 days. If the Court does not issue a temporary emergency order, a full hearing will take place within 30 days.

The PFA Hearing

10. Must there be a PFA hearing if the accused person agrees to the terms of the PFA?

On the day the full hearing is scheduled to take place, the accused offender will be asked by Court staff if he or she wishes to agree to a PFA. If he or she agrees, there will be no need for a hearing and there will be no finding of abuse against the accused offender. The order will include all the relief to which the parties agreed. The order will be as enforceable as any order obtained through a full hearing.

If the accused agrees to a PFA, the victim does not have to risk losing a trial and having the petition dismissed. The victim may still request a trial. Keep in mind that a finding of abuse against an abuser can result in the abuser having a more difficult time getting custody of children, if any are involved.

11. What if the accused offender does not agree to the order?

If the accused offender does not agree to the order, then the victim must prove the offender abused the victim, as accused in the petition, through a full hearing. The complete PFA hearings are heard on the day scheduled, and the victim must have all witnesses present for the hearing. If the victim proves the alleged abuse occurred, then the PFA will be awarded. The relief granted to the victim will depend on what is necessary to prevent further violence.

12. How long is the PFA in effect?

The PFA Hearing (cont.)

Regardless of whether the order is issued by consent or through a full hearing, the order usually will stay in effect for one year from the date it is issued. Under certain circumstances, the order can be extended for an additional period of up to six months.

13. Who enforces the PFA?

Enforcement of the PFA is largely the responsibility of the protected victim. The victim is the first to know when the order has been violated. Therefore, if the offender violates the order (for example, contacts the victim or further abuses the victim), the victim must immediately call the police and report the violation.

14. What will happen if the offender violates the PFA?

Any violation of the order is a criminal misdemeanor. Violations reported in this fashion will generally result in the perpetrator being arrested and criminally charged with a violation of the protective order. The violation must be proven at a criminal trial. Repeated criminal convictions for violating the protective order may result in jail time for the offender.

15. What should the victim do if the offender violates the PFA?

The victim should call the police, particularly if the offender is violating an order to stay at least 100 yards away or to have no contact. Police can arrest the offender for criminal contempt.

16. What if the offender doesn't pay court-ordered support or breaks a custody or visitation order?

The victim can also file a motion for a civil contempt of the PFA in Family Court when the violation involves non-payment of support or violations of the custody or visitation order. The victim would have to prove in court that the offender committed the violation.

4 Third Party Custody and the Dependency/Neglect Process

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Introduction

As a grandparent, you are considered a third party if you go to court to get custody of your grandchild. As discussed in Chapter 2, if you believe your grandchild is being neglected or abused you must report it to the Division of Family Services. You may also decide to file a dependency/neglect petition in Family Court (see Forms). Chapter 4 explains the dependency/neglect petition filing process.

Chapter Glossary

(These terms also appear in the Glossary at the end of this Legal Handbook)

Adjudicatory Hearing – A Family Court hearing which occurs after a child has been removed from the custody of a parent or guardian on an emergency basis and placed with the Division of Family Services.

Dependent child – A child whose physical, mental or emotional health and well-being is threatened or harmed because of inadequate care and protection by the child’s custodian, who is unable to provide for the child whether or not caused by the child’s behavior. *10 Del. C. §901(8)*

Dispositional Hearing – A Family Court hearing held 30 days after the Adjudicatory Hearing. At this hearing the judge decides if the placement of the child and the conditions of that placement are appropriate.

Hearsay evidence – A statement made out of court and which is offered to prove the truth of the information in the statement.

Law citations – As you read about the law, you may see references that look like this: *13 Del. Code § 1103*. These are legal citations that direct you to the specific part of the law in question. The first number (in this case, the 13) is the title of the law in the Delaware Code. The Delaware Code is the name for the entire set of state laws. The number that follows the symbol "§" (in this case, the 1103) is the section or subsection of that law.

Neglected child – A child whose physical, mental or emotional health and well-being is threatened or harmed because of inadequate care and protection by the child’s custodian, who has the ability and financial means to provide for the care but does not or will not provide adequate care.

Petitioner – One who files an action in court.

Note: These definitions apply in the context of family law only.

Overview

1. What is custody?

Custody, or the right to care for and maintain a child, is usually the right of the birth parents. If there have been no legal proceedings each parent automatically holds joint natural custody. If there has been a court proceeding, the Court can either award one parent sole custody or continue joint custody with both parents. In cases where one parent is awarded sole custody, that parent is the custodial parent and is responsible for making all decisions concerning the child. In cases where the Court has awarded joint legal custody to both parents, then both parents are responsible for making joint decisions concerning the child.

2. What is third-party custody?

Custody to a third party means custody granted to the Division of Family Services or to an individual other than a parent because of an emergency situation. It is intended to be temporary. The person petitioning for custody must show that the child is dependent, abused, or neglected (see Chapter 4 Glossary). While the intent is for custody to be temporary, the individual or the state agency that holds custody can get a court order to keep custody until the child reaches adulthood.

3. What is the difference between custody and guardianship?

The difference between custody and guardianship is a difficult question that refers to many different laws and situations and would take many pages to answer.

Generally custody is seen as something less than guardianship, but there is usually no difference in what a custodian versus a guardian can do for a child. However, some organizations such as schools, hospitals, or doctors may be under the legal obligation to accept consent to various things only from a parent or a legal guardian.

Keep in mind that this document is not meant to be legal counsel. If you have specific questions regarding custody and guardianship, you will need to refer to an attorney.

4. How does the Court decide to grant custody or guardianship?

Whether the petitioner seeks custody or guardianship, a parent can only be deprived of custody if the Court determines that the parent cannot provide "adequate care" for the child. If the Court so determines, then the Court will decide what custody, arrangement or placement is in the

child's best interest.

5. What is meant by "the best interest factors" for a child?

The Court determines the custody and residential arrangements for a child by focusing upon the child's "best interest." Factors the court considers in determining the child's best interest include but are not limited to:

- wishes of the parent
- wishes of the child
- relationship of the child with other people living in the household
- child's adjustment to the home, school and community
- mental and physical health of all individuals involved
- past and present compliance of both parents with their rights and responsibilities, and
- evidence of domestic violence.

Filing a Dependency/Neglect Petition

6. Who can file a dependency/neglect petition?

Anyone who believes a child is being neglected or abused can file a dependency/neglect petition (see Forms or <http://courts.state.de.us/family/starting/forms/Forms.html>).

7. How do I file a dependency/neglect petition?

Go to Family Court in the county where the child currently lives. Staff will help you complete the form.

Family Court

New Castle County

500 King Street
Wilmington, DE 19801
(302) 255-0300

Kent County

400 Court Street
Dover, DE 19901
(302) 739-6500

Sussex County

22 The Circle
Georgetown, DE 19947
(302) 856-5601

The Hearing Process

8. What is a Preliminary Protective Hearing?

Once the Division of Family Services removes the children from their home, a hearing is scheduled in Family Court within 10 days. This hearing is called a Preliminary Protective Hearing, and its purpose is to determine probable cause (reasonable belief that certain facts and circumstances exist). The parents will be notified of this hearing, and they may have an attorney present. The petitioner has to show probable cause that the child is dependent or neglected (see Glossary) and that he or she will suffer certain harm if not removed from the parents' care. Any information, including hearsay evidence (see Chapter 4 Glossary), is allowed at this time.

9. What is the Adjudicatory Hearing?

After the Preliminary Protective Hearing, the Adjudicatory Hearing (see Chapter 4 Glossary) is scheduled within 30 days in Family Court. At this hearing the petitioner must prove that the children are still dependent or neglected and that they need to remain in the care of the petitioner.

If the Division of Family Services (DFS) is the petitioner, its staff should have met with the parents by this time to determine what services they may need to correct the situation. Throughout the legal proceedings, DFS should be developing a plan with the parents, which gives the details about what DFS will require the parents to do before the children can be returned to them and spells out the services DFS will offer the parents.

When appropriate DFS can provide many services to the family such as financial assistance, parent aide services to assist with parenting skills, individual and family counseling, intensive home-based services, and/or transportation to appointments. DFS also can help the family get connected with other service providers in the community if the family has other needs.

If Family Court continues custody with the petitioner at the Adjudicatory Hearing, a Dispositional Hearing is held 30 days after the conclusion of the Adjudicatory Hearing.

10. Only first-hand evidence is allowed at the Adjudicatory Hearing. What is first-hand evidence?

All testimony must be first-hand at the Adjudicatory Hearing. Hearsay evidence is NOT admissible. For example, at the Preliminary Protection Hearing, the DFS worker can testify that the day care worker saw bruises on the child, which is

hearsay evidence. At the Adjudicatory Hearing, the day care provider who actually saw the bruises must testify himself or herself to what he or she saw.

11. What is the next step if Family Court allows the petitioner to continue custody?

If Family Court continues custody with the petitioner at the Adjudicatory Hearing, a Dispositional Hearing is held 30 days after the conclusion of the Adjudicatory Hearing. At the Dispositional Hearing, the judge decides if the placement of the child and the conditions of that placement are appropriate.

12. What happens at the first Dispositional Hearing?

If the Division of Family Services (DFS) is the petitioner, the Court will look to see that the parents are working with DFS, that the temporary caretaker is meeting all of the children's needs, and that the appropriate services are being offered to the parents. DFS' workers are required to meet with the parents on a regular basis.

13. What services can DFS provide during the Dispositional Hearing and Adjudicatory Hearing?

The Dispositional Hearing is the time when the plan is made part of the court order. In developing this plan and during the Adjudicatory Hearing, DFS can provide many services to the family such as financial assistance, parent aide services to assist with parenting skills, individual and family counseling, intensive home-based services, and transportation to appointments. DFS also can be helping the family get connected with other service providers in the community if the family has other needs. The plan will be reviewed at each subsequent Review Hearing.

14. How often are Review Hearings held?

Review Hearings are scheduled every three months, starting from three months after the date of the Dispositional Hearing. The progress of the family is discussed at these hearings. At this point, if the parents are cooperating and following the plan, DFS should be expanding the children's visitation with the parents and looking toward returning them home.

15. How much time are the parents given before their parental rights are terminated?

The Hearing Process

Once children have been removed from the parents' custody, the parents must be actively working toward reunification (bringing the family back together) with the children. Otherwise, the Division of Family Services (DFS) will try to have their parental rights terminated so that the children can be freed for adoption (see Chapter 7).

When children have been in foster care for 10 months, the DFS worker is required to present the case to the Division of Family Services' Permanency Planning Committee. The Permanency Planning Committee is responsible for reviewing the progress that a family is making in addressing the issues that resulted in the children being removed from the home.

If the parents are making progress on their plan and it looks like reunification is likely to occur in the near future, the DFS worker continues to work with the family. However, if the parents are not making progress on their plan and reunification does not look promising, the Permanency Planning Committee may recommend that the DFS worker file a Termination of Parental Rights (TPR) petition. Family Court must give final approval before DFS can officially discontinue reunification efforts. At the next regularly scheduled Dispositional Hearing, DFS will present its case, describe the parents' lack of planning, and request that the goal change from reunification to termination of parental rights.

Generally, if children are one year of age or older, parents have one year to be reunified with their children before DFS will seek to terminate their parental rights. If the child is less than one year old, DFS can file a Termination of Parental Rights petition after six months. However, there are circumstances in which DFS may seek to terminate parental rights before the six-month or one-year point (*13 Del. Code §1103*). DFS must show that one of the conditions in the Delaware's Domestic Relations Code (*13 Del. Code § 1103*) has been met and that it is in the best interest of the children for the parents' rights to be terminated. You can read the law on the Internet at <http://www.delcode.state.de.us/> or at your county courthouse resource center.

Emergency Custody

16. How do I obtain emergency custody?

To obtain emergency custody of a child, you must go to Family Court in the county where the child lives and file an emergency dependency/neglect petition (see Forms). You **MUST** provide the court with the last known addresses for **BOTH** parents, even if one parent has not had contact with the child. Staff at Family Court will help you complete the necessary paperwork.

17. What does a grandparent or other relative have to prove to qualify for emergency custody?

In order to qualify for emergency custody, the petitioner must show that the child will suffer immediate and permanent harm unless emergency custody is awarded. If the petitioner can show that those conditions exist, the Court will award the petitioner ex parte custody. An emergency custody order is only valid for 10 days.

18. What happens once the 10 days of the emergency custody order are over?

If Family Court has awarded emergency custody to the petitioner, a Preliminary Protection Hearing will be held within 10 days of the emergency custody ruling. At the Preliminary Protection Hearing, the petitioner and the parents present their cases to the Court. At the end of the Preliminary Protection Hearing, the Court will decide whether custody should remain with the petitioner or go back to the parents. If Family Court continues custody with the petitioner, an Adjudicatory Hearing (see Chapter 4 Glossary) will be held within 30 days of the Preliminary Protection Hearing.

19. What is the fee to file for emergency custody?

There is a \$50 filing cost at the time of this publication. If the petitioner has little or no income and cannot afford the filing fee, he or she may file a fee waiver application.

Legal Representation

20. Who is involved in the court proceedings?

A Deputy Attorney General represents the Division of Family Services (DFS). The DFS worker involved in the case appears at the hearings to inform the attorney what is happening and what DFS believes is best for the child. An attorney from Community Legal Aid Society, Inc. may represent the parents, or Family Court may appoint an attorney to represent them. If the parents have differing positions in the case, each parent may have his or her own attorney.

21. Can the children have their own attorney?

Yes. The children can be represented by a guardian *ad item*. This is an attorney who is appointed to represent the children's interests. If the children are old enough to express an opinion and the children have differing opinions, there may be more than one guardian *ad item*.

22. How is a guardian *ad item* appointed?

The Division of Family Service, the Court, or anyone else who believes that a child needs representation can contact the Office of the Child Advocate at **(302) 577-6830**. Once the Office of the Child Advocate receives a referral, staff evaluates the case and decides whether they will ask the court to appoint a guardian *ad item* for the child. The Court then signs an order appointing a guardian *ad item* to the case. Attorneys with the Office of the Child Advocate represent the best interest of the child (see Glossary) in court. Not all children receive a guardian *ad item*.

23. What is the role of the Court Appointed Special Advocate (CASA)?

The best interest of the children is usually expressed to the Court through the Court Appointed Special Advocate (CASA). The CASA is a volunteer who, like DFS, investigates the case. The CASA can talk to teachers, doctors, neighbors, relatives, landlords and the children to determine what is in the children's best interest. Throughout the proceedings, the CASA often visits with the children, as well as with the parents to see how they are trying to improve their situation. An attorney also represents the CASA.

24. Should I, as the relative caregiver, obtain an attorney?

The legal system can be complicated and confusing. An attorney can advise you concerning your legal rights and help you understand the legal procedures.

5 Guardianship

For Information On:

See Question #:

Abandonment	3
Best interest of the child (Glossary)	2, 3, 11, 13, 14
Child abuse	3
Child neglect (Glossary)	3, 11, 13
Child support order	16
Deceased parents	9
Department of Services for Children, Youth, and Their Families (Resources)	15
Failure to care for the child	3
Family Court	2, 8
Foster child	5
Guardian (proposed)	6
Guardianship – permanent	1, 2, 3, 5, 11, 12 , 13, 14
Guardianship petition (Forms)	8, 10, 11
Guardianship – standard	1, 2, 5, 11, 12 , 13, 14
Legal standing	Introduction
Legally incompetent parents	3
Relative Caregivers’ Medical Authorization Affidavit (Forms)	Introduction
Relative Caregivers’ School Authorization Affidavit (Forms)	Introduction
Social Study	7, 11
Subsidy (Glossary)	15
Substantial change in material circumstances	2, 14
Suitability of placement	7, 11
Terminating parents’ rights	3, 4
Termination of rights to other children	3

Introduction

If the Division of Family Services has placed a child in your care, you have some important issues to consider. If you believe you will care for the child for quite some time or you don't know where the parents are, you may want to consider applying for guardianship or custody so you can make decisions without delay. You will also have legal standing in the eyes of the Court. Keep in mind that, unless you have custody or guardianship, the parents' decisions always have priority.

Chapter 5 explains guardianship and how you can seek it within the court system. The information in this section does not contain all you will want to know. For further information and details please contact either the Division of Family Services at **(302) 633-5128**, or the Community Legal Aid Society at **(302) 575-0660** in New Castle County; **(302) 674-8500** in Kent County; or in Sussex County at **(302) 856-0038**.

The Types of Guardianship

1. What kinds of guardianship are there in Delaware?

In Delaware there are two types of guardianship - permanent and standard. Both standard and permanent guardians have the authority to act as the parent for matters such as medical treatment, education, and choice of religion. Permanent guardianship is a little more difficult to obtain, because it is harder for the birth parent to reverse than standard guardianship.

2. What is the advantage of permanent guardianship over standard guardianship?

The advantage of permanent guardianship is that the order will not be adjusted or terminated by the Court at the request of a birth parent unless there is a "substantial change in material circumstances" on the part of the guardian, and it is in the best interest of the child. A substantial change in material circumstances may be loss of employment, a major change in housing status, serious medical bills, etc.

With standard guardianship, the parent can go to Family Court at some point in time and petition to regain custody of the child. However, the birth parent must show that circumstances have changed to the point that it is safe and in the child's best interest if he or she is returned.

3. What circumstances does the Court require in order to obtain permanent guardianship?

To obtain permanent guardianship, a petitioner must show at least one legal reason for terminating the parents' rights. Examples of legal reasons that many qualify are abandonment, legally incompetent parents, child abuse and/or neglect, failure to care for the child, or termination of rights to other children. The petition must also show that adoption of the child is not possible or likely and that permanent guardianship is in the best interest of the child. The birth parents can agree to appointment of a permanent guardian, or it can be granted by the court.

4. What is the difference between guardianship and adoption?

The difference between guardianship and adoption is that with adoption all of the rights of the natural parents are terminated. Once adoption is granted, the birth parent is no longer the parent in the eyes of the law.

Who Can Obtain Guardianship

5. What is the minimum age requirement for a guardian?

In Delaware, an individual over the age of 21 or a husband and wife living together and not legally separated can file for standard guardianship of a child who is not their natural child regardless of the child's age. The child need not be a blood relation. However, for permanent guardianship of a foster child over 12 years of age the potential guardian must be a blood relative or the foster parent.

6. What does the Court look for when considering someone to become a guardian?

The Court looks for the proposed guardian to be physically, emotionally, and financially able to care for the child.

7. Can the child appoint his/her own guardian?

A child 14 or older can agree to the appointment of a guardian of his or her choosing, as long as the legal requirements are met. Also, a social study, which is an evaluation of the child, the home, and the suitability of the placement, with a recommendation for or against the guardianship, made by the person or agency conducting the study, is required.

Filing for Guardianship

8. How do I file a guardianship petition?

A guardianship petition is filed in Family Court (see Forms). At the time of the printing of *Delaware's Legal Handbook for Grandparents & Other Relatives Raising Children*, the cost for the petition was \$50. (You can request a fee waiver.)

Filing for Guardianship (cont.)

The petition must contain:

- Name and place of residence of the petitioner;
- Name, sex, date of birth and place of birth of the child;
- Relationship of the petitioner to the child; name and address of mother and father or presumed father, or information concerning efforts to locate the parent(s);
- Name and address of an agency that holds parental rights or custody; if the child is 14 or older, an affidavit that the child consents to the guardianship;
- A statement from each parent that the child is dependent and/or neglected and the reasons for that situation; or that the proposed guardian is a stepparent; or that the parent consents.

9. What if the parents are deceased?

If the parents are deceased, a copy of the death certificates must be attached to the petition.

10. What happens after a petition for guardianship or custody is filed?

After the petition is filed, the Court will schedule a hearing.

11. How does the Court decide whether or not to grant guardianship? Is a social study required?

The Court will hear testimony from the parties involved, as well as witnesses. The Court could order a social study, which is an evaluation of the child, the home and suitability of the placement, with a recommendation for or against the guardianship. The social study is required for permanent guardianship, but not always for standard guardianship.

The Court will grant the petition for guardianship if it finds by clear and convincing evidence (see Glossary) that the child is dependent and/or neglected (see Glossary) and it is in the best interest of the child. The Court will also grant guardianship if the parents provide written consent or if the child is 14 years old or older and consents to the guardianship. During the guardianship hearing, the Court will determine whether there should be contact between the child and the parents, and the nature and extent of that contact.

Filing for Guardianship (cont.)

12. When does the order of guardianship end?

For either permanent or standard guardianship, the order can only end through a court action, the death of the child or guardian, upon adoption, or when the child reaches the age of 18.

13. Can the guardianship order ever change?

Standard guardianship can be changed by the court if the child is no longer dependent and neglected and it is in the best interest of the child to modify the order. Permanent guardianship is more difficult to change than standard guardianship.

14. What if the birth parents want the child back?

The parents would need to file a petition for custody with the court. The petition would need to show that the conditions that caused the court to grant standard guardianship no longer exist, and that it is in the best interest of the child to return to the custody of the parents. If the parents seek to end a permanent guardianship arrangement, they must prove that the guardian has undergone a substantial change in material circumstances (see Question 2).

Financial Support

15. What financial support is available for the guardian?

If the child was in foster care for at least one year prior to the grant of guardianship, a subsidy (see Glossary) may be available. The Department of Services for Children, Youth and Their Families determines the amount and length of time of the subsidy. This subsidy applies to guardianship only.

16. Can a guardian file for child support?

A guardian can file for child support through the Division of Child Support Enforcement (see Forms and Resources). Parents are obligated to pay child support until the child reaches 18 years of age and graduates from high school or turns 19. A child support order can also order the parents to pay for or provide health insurance.

6 Foster Care

For Information On:

See Question #:

Adoption	3
Day care	4
Delaware Help Line (Resources)	4
Department of Services for Children, Youth & Their Families (Resources)	2
Division of Family Services (DFS)	Introduction, 3, 4
Foster parent	Introduction, 1, 2, 4
Guardianship	3
Medicaid card	4
Medicaid office	Introduction
Permanent guardianship	4
Permanent home	Introduction
Permanent placement	Introduction, 2
Respite	4
Reunification services	3
State Service Center	Introduction
Stipend	4
Temporary Assistance for Needy Families (TANF)	Introduction

Division of Family Services web site: <http://www.state.de.us/kids>

Introduction

Perhaps you are concerned for the welfare of your young relative, but permanent placement in your home is not the best solution. Foster care allows a child who is abused, neglected or dependent and in the custody of the Division of Family Services (DFS) to live with a party other than her parents until she is returned to her parents or until a permanent home can be arranged. You may choose to offer your home and care as a foster parent for a child in the custody of Division of Family Services. Becoming a foster parent is only an option if the child is currently in the custody of DFS. When relatives have custody of a child, they may choose not to become foster parents, but they may seek financial support through Temporary Assistance for Needy Families (TANF). Application may be made at any State Service Center and Medicaid office (see Resources).

This chapter discusses the ways in which you can seek to be a foster parent for your related child in Division of Family Services' custody. This section does not cover everything you need to know about foster care. For further information, please contact the Division of Family Services at **(302) 633-5128** or **1-800-464-4357**. You may also find information on the Division's web site at http://www.state.de.us/kids/foster_home.html.

You can also contact the Community Legal Aid Society in New Castle County at **(302) 575-0660** or **1-800-292-7980**; Kent County at **(302) 674-8500** or **1-800-537-8383**; and Sussex County at **(302) 856-0038** or **1-800-462-7070**.

Becoming a Foster Parent

1. How do I become a foster parent?

To qualify as a foster parent you must be a Delaware resident, participate in 27 hours of pre-service training with additional training each year, provide personal references, pass a criminal record check, provide information regarding financial means to support the child independent of foster care payments, be in good physical health and complete a home health safety check.

2. What are the advantages/disadvantages of foster care over guardianship or adoption?

A foster parent cares for the child until a permanent placement can be made. The foster parent, however, has no legal parental rights. The Department of Services for Children, Youth and Their Families is the legal custodian and has authority for decisions regarding most medical care, except in emergency situations and some school services.

The Birth Parents' Interests

3. What if the birth parents want the child back from foster care?

Under most circumstances, the Division of Family Services is required to provide reunification services (bringing parent and child back together) to the parents and child for a period of time. The parents are given a chance to repair the situation that caused the child to enter foster care. The Court reviews the parents' progress and determines whether the child should remain in foster care because of the situation at home. The Court can also order a change in goal from reunification to adoption or guardianship if the parents are unable to provide a safe home for the child.

Financial Support

4. What financial support and services are available?

The Division of Family Services provides a monthly stipend, Medicaid card and supportive services such as day care and respite to foster parents only as needed. Relative caregivers who are not foster parents (see Question 1) are not eligible to receive this stipend.

Foster parents to children with special needs **may** be eligible for financial support to help them obtain permanent guardianship.

For other financial assistance and non-financial supports and information, caregivers can contact the Delaware Help Line **(1-800-464-4357)**.

7 Adoption

For Information On:

Adoption petition
Adoption subsidies
Birth parents
Child's best interest (Glossary)
Delaware Code
Department of Services for Children,
Youth & their Families (Resources)
Fee
Legal parent
Licensed agency
Non-relative
Permanent
Petition for the termination of
parental rights
Relative
Right to inherit
Social study (Glossary)
Special needs children
Temporary Assistance for
Needy Families (TANF)
Terminate Parental Rights

See Question #:

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11
10
Introduction, 9
Introduction, 7
Introduction 4, 5, 7, 9
6
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4, 5, 7, 9
3, 5, 7
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4, 6, 7, 8, 9
3, 4
1
8
11
11
Introduction, 2, 4, 5, 10

Introduction

If you believe that a child's well-being is best served by staying with you permanently, you may want to consider adoption. The adoption process is a long one. There must be grounds to terminate parental rights, and the termination of parental rights must appear to be in the child's best interest. This chapter discusses the advantages and disadvantages of adoption, as well as the legal processes.

This section does not cover everything you need to know about adoption. For further information, please contact the Department of Services for Children, Youth and Their Families at **(302) 653-2655** or The Delaware Help line at **1-800-464-4357**. You will find information on the Division's web site at **<http://www.state.de.us/kids/adoption.html>**.

You can also contact the Community Legal Aid Society in New Castle County at **(302) 575-0660** or **1-800-292-7980**; Kent County at **(302) 674-8500** or **1-800-537-8383**; and Sussex County at **(302) 856-0038** or **1-800-462-7070**.

More information on the termination of parental rights and adoption can be found in the Delaware Code Annotated Title 13 Chapters 9 and 11. You can access Delaware laws on the Internet at **<http://www.delcode.state.de.us/>**.

Who Can Adopt

1. What are the advantages of adoption?

The advantages of adoption are that adoption is permanent and you become the legal parent of the child. You have all the rights and responsibilities of the parent. The adoptive child is considered the child of the adopting parent, entitled to the same rights and privileges and subject to the same duties and obligations as if she had been born to the adopting parents. The adopted child gets the right to inherit from its adoptive parents, but not from the natural parents.

2. What are the disadvantages of adoption?

The disadvantage is that adoption is not an easy process or quick solution. The Court understands and gives much thought to this important action. Even if the natural parent consents to terminate his or her rights, it is still a long process. Also, both natural parents must terminate their rights for an adoption to take place, unless it is a stepparent adoption. Children over the age of 14 must give their written consent to the adoption, and it must be submitted to Family Court with the adoption petition.

3. Can a relative or non-relative adopt?

Yes, a relative or non-relative can adopt.

The Adoption Process

4. What is the process for a relative to adopt?

A petition to terminate parental rights is filed in Family Court. Only a parent, blood relative, licensed agency or the Department of Services for Children, Youth and their Families can actually file a petition to terminate parental rights. Also, the relative who plans to adopt must have had the child in the household for at least one year, and there must be little chance that the parent will be able to take their parental responsibility in the near future.

5. What is the process for a non-relative to adopt?

For a non-relative to adopt, he or she must go through the Department of Services for Children, Youth, and Their Families or a licensed agency to terminate parental rights, and then must file an adoption petition. In effect, the agency will be granted parental rights and then will transfer those rights to the prospective adoptive parent through the adoption petition.

Termination of Parental Rights

6. What is the fee to file for termination of parental rights?

At the time of the publication of *Delaware's Legal Handbook for Grandparents & Other Relatives Raising Children*, the filing fee for Family Court was \$50 for any custody, guardianship, adoption petition, etc.

7. How do I file to terminate parental rights?

A petition for the termination of parental rights may be filed by a parent of a child, a blood relative, the Department of Services for Children, Youth and Their Families, or a licensed agency.

The petition must contain:

- Name and place of residence of the petitioner;
- Name, sex, date of birth and place of birth of the child;

Termination of Parental Rights (cont.)

- Relationship of the petitioner to the child;
- Name and address of mother and father or presumed father, or affidavit that mother does not know or is unwilling to disclose the name of the biological father or his whereabouts;
- Name and address of the agency or individual that holds parental rights or custody, and information regarding who is caring for the child;
- Grounds for termination of parental rights (including, but not limited to abandonment, incompetence, commission of a serious crime, failure to provide for child's physical needs, etc. (see *Delaware Code, Title 13, Chapter 11, §1103*) (<http://www.delcode.state.de.us/>).
- Name and address of the person who wants to adopt;
- If parents' whereabouts are unknown, description and documentation of efforts made to locate parents;
- Efforts made by the agency to place the child with a relative, if a non-relative wishes to adopt and any other placement efforts made;
- A statement that parents have been advised of their rights to file an affidavit regarding contact by the child when the child reaches 21 years old. If the birth parent agrees to terminate or end his or her rights, a written, signed consent is attached to the petition.

8. What happens once the termination of parental rights petition is filed?

Upon filing of the termination of parental rights petition, the court will order a social study and report on the petition to be filed in court within four months. The court will schedule a date for the hearing after the report is filed. All parties will be notified of the hearing date.

9. How does the Court come to the decision to terminate parental rights?

The Court will grant the petition for termination of rights after a hearing if it decides by the evidence that the basis for termination has been met and it is in the best interest of the child (see Glossary). The Court decides that those parental rights should be transferred to some other person or persons or the Department of Services for Children, Youth, and Their Families or a licensed agency, whichever is best qualified. The Court may also grant the termination of parental rights if the parents provide written consent.

10. What if the birth parent(s) want(s) the child back after parental rights have been terminated?

Once parental rights are terminated, the parent has 30 days in which to appeal the decision in state Supreme Court. Only under very unusual circumstances can a parent take action for return of the child after the appeal period.

Financial Support

11. Are there financial support and services available to help with day-to-day expenses?

For special needs children and for families that qualify, adoption subsidies may be available for those adopting a child out of the foster care system. Also, Temporary Assistance for Needy Families (TANF) benefits may be available for the family.

8

Education and Health Care Issues

For Information On:

See Question #:

Custody/Guardianship	Introduction, 1, 6, 7
Delaware laws	1
Discipline	3
Division of Public Health	9
Division of Services for Aging and Adults with Physical Disabilities (Resources)	5, 9
Division of Social Services (Resources)	9
Local school district office	5
Medical approval for school healthcare	3
Parent, custodian, guardian	Introduction, 4, 8
Relative Caregivers' Medical Authorization Affidavit (Forms)	Introduction, 1, 7, 8, 9, 10
Relative Caregivers' School Authorization Affidavit (Sample)	Introduction, 1, 2, 3, 4, 5, 6, 8
Special education	3
Truancy	3

Division of Services for Aging and Adults with Physical Disabilities

web site: <http://www.DSAAPD.com/>

Introduction

Caregivers who do not have custody or guardianship of the related child living with them can approve their medical treatment and register them for school with the appropriate affidavit. To approve medical treatment, the caregiver would complete and have notarized a Relative Caregivers' Medical Authorization Affidavit. To register the child for school, the caregiver would complete and have notarized a Relative Caregivers' School Authorization Affidavit (see Forms).

If you know the parents' whereabouts, you must have them sign the Relative Caregivers' Medical Authorization Affidavit and the Relative Caregivers' School Authorization Affidavit. A parent, custodian, or guardian may sign the affidavit in those situations where they will not be available to perform their parental responsibilities for a certain period of time. For example, they may not be available to approve medical care or register the child for school if the parent, custodian, or guardian is on military assignment, in jail, or going to be away from home for a prolonged time. Both affidavits need to be updated each year.

Relative Caregivers' School Authorization Affidavit

1. How can I register my grandchild, niece, nephew or cousin for school and approve his/her medical treatment if I do not have custody or guardianship?

You can register the child in your care for school and approve their medical treatment by completing the Relative Caregivers' School Authorization Affidavit and the Relative Caregivers' Medical Authorization Affidavit. You must be related to the child and caring for him or her in your home. These school and medical affidavits are Delaware laws and must be honored throughout the state.

2. What information does the Relative Caregivers' School Authorization Affidavit require?

The Relative Caregivers' School Authorization Affidavit asks for information about you, the child, and why you are raising the child. You also must show that you are a relative, that you are caregiving, and that you have the child's parent's consent, or that you have tried unsuccessfully to reach the child's parents to inform them of your decision to take on the child's education decisions.

3. What responsibilities do I have if I submit the Relative Caregivers' School Authorization Affidavit and it is approved?

By signing the affidavit you agree to be responsible for enrolling the student in school; be the legal contact for the school regarding, but not limited to, truancy and discipline; make school-based decisions, including, but not limited to, those regarding special education; and give medical approval for healthcare administered by the school.

4. Can a parent, custodian, or guardian sign the Relative Caregivers' School Authorization Affidavit and make me responsible for the child's education decisions?

A parent, custodian, or guardian could sign the affidavit if he or she will not be available to make education decisions. Some examples of when this arrangement would be appropriate are if the responsible person was going to be away on a military mission, going to jail, or entering a drug treatment program.

5. Where can I get more information and a copy of the Relative Caregivers' School Authorization Affidavit?

The affidavits can be obtained at your local school district office. The staff will help you complete the form and will let you know if it is approved. A sample is included in the Forms section of this handbook.

Besides your local school district office, you can find more information on the Division of Services for Aging and Adults with Physical Disabilities web site, www.DSAAPD.com/intergen.html, or call the Division at **1-800-223-9074**.

6. How long can a Relative Caregivers' School Authorization Affidavit be in effect?

The affidavit can be in effect for up to two years, depending on the school. After that time, caregivers are expected to obtain custody or guardianship if the parent, custodian, or guardian has not taken the responsibility back.

Relative Caregivers’ Medical Authorization Affidavit

7. What do I have to do to give approval for medical treatment for the child in my care?

If you do not have custody or guardianship and are raising a relative’s child, you would complete a Relative Caregivers’ Medical Authorization Affidavit.

8. Can a parent, custodian, or guardian sign the Relative Caregivers’ Medical Authorization Affidavit and make me responsible for making medical decisions for the child?

Just as with the Relative Caregivers’ School Authorization Affidavit, a parent, custodian, or guardian who will be away for a certain length of time can sign the medical affidavit, giving you permission to make medical decisions.

9. Where can I get more information and a copy of the Relative Caregivers’ Medical Authorization Affidavit?

A copy of the Caregivers’ Medical Authorization Affidavit is included in the Forms section of this handbook. You also can pick up copies at service sites of the Division of Public Health, the Division of Social Services, and the Division of State Service Centers (see Resources). You can find more information on the Division of Services for Aging and Adults with Physical Disabilities web site, www.DSAAPD.com/intergen.html, or call the Division at **1-800-223-9074**.

10. How long can the Relative Caregivers’ Medical Authorization Affidavit be in effect?

The Medical Authorization Affidavit is in effect for one year, after which it must be renewed.

9 Special Education

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Department of Education web site:

http://www.doe.state.de.us/exceptional_child/ececehome.html

Introduction

You may become concerned about the education of the child in your care, especially if there is a disability that keeps him or her from progressing in their learning.

Special education services may be available through the State of Delaware. This chapter will explain what is available in the school services system to help your child with their learning problems. It will also give information about your role in your child's educational management and what to do if you feel your child's rights are not being addressed adequately.

Overview

1. What is special education?

Special education refers to school services provided to meet the needs of children with disabilities. These services are provided at no cost to the parents. Special education is not just for children with mental retardation. Special education services may be provided to children with physical limitations, emotional or behavioral problems, attention deficit disorders, and dyslexia or other learning disabilities that affect their education.

2. What laws govern special education?

There are two federal laws that require schools to accommodate and provide special education services to eligible children with disabilities. These are the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act (of 1973) which is generally called "Section 504." These are explained in the sections that follow.

3. Where can a caregiver get some help with dealing with special education needs outside of the education system?

Caregivers statewide can call the Parent Information Center (PIC) toll-free at **1-888-547-4412**. The e-mail address for PIC is picofdel@picofdel.org. Their web site is www.picofdel.org. PIC is a non-profit organization serving children and youths with special needs and their families.

The Association for the Rights of Citizens with Mental Retardation (ARC/DE) has a parent mentor program to help caregivers navigate the special education system. For more information contact ARC/DE in New Castle County at **(302) 996-9400**; in Kent County at **(302) 736-6140**; and in Sussex County at **(302) 856-6019**.

Community Legal Aid Society, Inc. may also be able to assist you if you are having problems. The phone number for the New Castle County office is **(302) 575-0660** or **1-800-292-7980**; in Kent County, **(302) 674-8500** or **1-800-537-8383**; and in Sussex County, **(302) 856-0038** or **1-800-462-7070**.

Eligibility

The Self-Help and Family Resource Centers in your county courthouse have detailed listings of the attorneys in Delaware. The lists include their specialties and other useful information. Attorneys who work on special education issues will be listed.

4. The child in my care does well in school but still has problems that keep her from making progress. Could she be eligible for special education services?

A child who has the ability to do well academically may still be eligible for special education services. For example, if a child is very intelligent, but her behavior problems or a learning disability prevent her from making progress, she may be eligible for special education services. Or, if a child is physically disabled, she may need special equipment or health services in order to make academic progress; therefore, she may be eligible for special education services.

5. If a child is eligible for special education services, is it required that he be placed in special education classrooms?

Being eligible for special education does not necessarily mean that a child will be placed in a special classroom. Special education refers to services that must be provided in the most integrated setting appropriate for the child. Therefore, a child with a learning disability may receive services to help her progress in college preparatory level classes. A child with emotional or behavioral problems may attend regular classes with the help of a behavior management plan and counseling sessions.

Many children who qualify for special education spend their days in regular classrooms and just receive help from special education teachers. Some children attend special education classrooms for some or all of the day. Some children attend special schools that only serve special education students. It depends on the severity of the disability and the degree to which it interferes with a child's ability to learn.

A child with a speech problem might attend regular classes and also receive speech therapy in a small group or individually - this is called a "related service." Related services are provided in addition to core instruction. Other examples of related services could be summer school, transportation, vocational services, assistive technology, Braille or sign language, and interpreters.

6. Who can make special education decisions for a child?

A team of individuals, including the parents, teachers and other qualified professionals, make decisions together about a child who receives special education services. Relative caregivers may help make decisions in place of the parents if:

- The Court has appointed the grandparent the legal guardian for the child; or
- The child lives with the grandparent or other relative and the caregiver is "acting in the place of a parent."

Individuals with Disabilities in Education Act — IDEA

7. What is the Individuals with Disabilities Education Act (IDEA) and what does it provide?

IDEA is a federal law that establishes the provision for special education and related aids and services to eligible children ages 3-21 with disabilities. IDEA outlines the child's rights, the school's responsibilities, the requirements for an individualized education plan, information about related services, a complaint process for families to use if they feel their child is not getting an appropriate education, the requirement that children be educated in the "least restrictive environment," and provisions for disciplining children with disabilities.

8. How does the IDEA define a child with a disability?

Under IDEA, a "child with a disability" is one who is evaluated as having mental retardation, a hearing impairment, a speech/language impairment, a visual impairment, serious emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, another health impairment, a specific learning disability, deaf-blindness, or multiple disabilities and who, because of his or her disability, needs special education and related services.

Individuals with Disabilities in Education Act — IDEA (cont.)

9. How do I get special education services for the relative child in my care under IDEA?

If you think the child is eligible for special education services under IDEA, you should write a letter to the child's school and ask for an evaluation for special education services. If the school requires a doctor's diagnosis of a condition and the child does not already have such a diagnosis, the school must pay for the doctor's visit. Make sure you sign and date the letter. Keep a photocopy of the letter and any other correspondence with the school. It is reasonable to request a response to your letter within 10 calendar days. If you do not receive a response from the school within that time, it is advisable to follow up with another letter or a phone call.

10. What should I do if the school refuses to evaluate the child?

Under the IDEA and 504, the district has a duty to identify, locate, and evaluate all children who have disabilities which require special education and related services. If the school personnel do not see any sign that the child's disability is interfering with learning, they may refuse to evaluate the child for special education services. If the school refused to evaluate the child, a description of the alternatives considered and why they were rejected, a description of the information or data used to support its decision, an explanation of parents' rights to appeal, and sources of support for the parents in understanding the child's rights under the IDEA are provided to the parent in a Letter of Notice from the school. The Letter of Notice must include a Notice of Procedural Safeguards, which describes the appeal process.

11. If I disagree with the school's decision not to evaluate my child what can I do?

To appeal the decision not to evaluate the child, the family may ask for an impartial due process hearing (see questions 28 & 29). At that hearing, the family would be given the opportunity to present testimony and evidence that their child has a disability and requires special education services. The district would present evidence and testimony supporting their decision not to evaluate.

In addition to filing for a due process hearing, a family may file an administrative complaint with the Delaware Department of Education if they are seeking evaluation related to the IDEA. Or they may file the administrative complaint with the United States Department of

Education Office of Civil Rights if they are seeking evaluation related to either the IDEA or Section 504. Administrative complaints trigger an investigation by the responsible agency, which determines if the child's rights have been violated without conducting a hearing. The agency would contact the parents, the school, and any other parties with relevant information during its investigation.

12. The relative child in my care was previously evaluated by her doctor. Does she need to be re-evaluated?

If the child has previously been privately assessed, it may be helpful to make copies of these assessments available to the school. The school may decide to have the child re-evaluated in some cases, and such evaluations would be at the school district's expense.

13. How often should schools re-evaluate children who are in special education programs?

Generally the school will automatically reassess children who are in special education every three years. If the child is already receiving special education services but a new problem has arisen, you may request additional evaluations or simply ask for an IEP meeting to discuss your concerns with the team and to make changes to the child's education plan.

14. What is an Individualized Education Plan (IEP)?

An Individualized Education Plan (IEP) puts in writing the educational plan for a child who is eligible for special education services under IDEA. The IEP contains the annual goals for the child, a statement of what special educational services will be provided and in what setting, descriptions of what "related services" and modifications or support will be provided, and in what extracurricular activities the child will participate.

Since the law requires disabled children to be educated with non-disabled children to the maximum extent possible, the IEP will also say how much of the child's education will be with non-disabled children. Children must have an IEP if they qualify for special education services under IDEA.

Individuals with Disabilities in Education Act – IDEA (cont.)

15. Who develops the Individualized Education Plan (IEP)?

The IEP team develops the IEP. The IEP team must include the child's parent (or a person acting in the place of a parent, such as a grandparent with whom the child lives or a guardian), a special education teacher, a regular education teacher, and a school administrator. The child may also be included, and he or she must be invited to the IEP meetings beginning at age 14. You may also request that other people attend the meeting as appropriate — such as a school nurse, a counselor, or an attorney or advocate for the child. These additional people may work for the school, but they can also be people who do not work for the school.

16. Where can I find help to enable me to participate in the child's IEP meetings?

If you need accommodations to participate in an IEP meeting (e.g. a language interpreter or special transportation), the school must provide those accommodations upon written request. For more information, you can also visit

<http://www.doe.state.de.us/exceptional%5Fchild/frequentlyaskedquestionsiep.html>.

17. How often should an IEP be updated?

An IEP must be updated at least once a year. However, if you feel the child's IEP is not being implemented or is not working, you have the right to request an additional IEP meeting to adjust the IEP at any time. Make sure you put your request in writing and keep a dated copy for your records. You have the right to written notice at least 10 days prior to any IEP meeting, but you may choose to waive that right in some circumstances when you feel an immediate meeting is warranted.

18. I trust my child's Individualized Education Plan team. Must everything be in writing?

You should be aware that the IEP is a legally enforceable document. If you want a service for the child in your care and the team agrees it is appropriate, make sure it gets written in the IEP. Do **NOT** accept verbal assurances that services will be provided. Not all of the child's teachers will be at the meeting, and they cannot be expected to know what was promised for the child unless it is written in the IEP.

19. What if the child's disability is behavior related?

If the child's disability involves difficult or disruptive behavior that keeps her or others from learning, the IEP should include strategies and

supports to address that behavior. The behavior plan should be developed by your IEP team with your input. First, a functional behavioral assessment is done. A functional behavioral assessment is gathering information to help determine what behaviors are occurring, when, where and how often. Positive strategies and supports can then be developed by the IEP team and you to address these behaviors and help the child to develop more appropriate behaviors.

The IEP should include "positive behavioral interventions"— a list of steps school personnel will take and caregivers can reinforce at home to help shape the child's behavior in a more positive direction by helping the child to replace negative behaviors with positive behaviors and by rewarding the child for positive behaviors. This plan should be reviewed regularly for effectiveness.

The behavior plan should not amount to simply a list of goals for the child to master or behavioral guidelines she must follow. It *should not* permit the school to send a child home routinely or authorize the school to remove the child from the classroom for long periods of time. You should ask the IEP team to create a one page summary sheet of the most important points in this behavior plan. Make sure the summary is copied and distributed to *all school personnel*, so that everyone who comes in contact with the child will know what the plan is.

Disagreements/Complaints

20. What can I do if I disagree with a decision the school makes about the relative child in my care and special education services, or if I have a complaint?

If you disagree with a decision the school has made about special education services for the relative child in your care, have a complaint about those services, or feel the child's rights under the Individuals with Disabilities Education Act (IDEA) have been violated, the first thing you should do is talk with your child's teacher or school administrator. If you still disagree, call your district special education supervisor or director. When you have a concern, this informal conversation often solves the problem and helps to maintain open communication.

If you believe that you need to move to a more formal way to solve problems, there are a number of ways available under IDEA: Mediation, impartial due process and the state complaint procedures.

Mediation

21. What is mediation?

Mediation is a process that uses an impartial, trained individual to help the parties work out solutions acceptable to both sides in an informed, non-argumentative manner. Mediation is offered anytime that a due process hearing is requested. Mediation is offered at no cost, but both parents and the school district must agree to try mediation before it can be attempted.

22. What are some of the rules regarding mediation?

1. It is voluntary: You cannot be forced to participate.
2. It cannot be used to deny or delay a caregiver's right to a due process hearing.
3. It is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
4. The State is responsible for the cost of the mediation process.
5. Each session will be scheduled and held at a location that is convenient to the parties to the dispute.
6. Discussions are confidential and may not be used as evidence in any later due process hearings or civil proceedings.

23. What are some of the responsibilities of the school district?

The school district must have a representative with authority to make decisions and commit resources to agreed-upon services present at mediation. The school district must also inform the caregiver of any free or low-cost legal and other relevant services that are available.

24. Is a record of the agreement reached through mediation placed in the child's school file?

Yes. The written mediation agreement becomes part of the child's educational record.

25. What happens if I do not want to use mediation?

If mediation has been explained to you and you refuse it, you may proceed with a due process hearing or file a complaint with the Department of Education.

Impartial Due Process

26. What is an impartial due process hearing?

The purpose of a due process hearing is to address the identification, evaluation and educational placement of a child or the provision of a free, appropriate education. In Delaware, an impartial due process hearing is before a three-member hearing panel. An attorney may represent you. You may present evidence of your own and confront and cross-examine witnesses testifying against you. You have the right to require witnesses to be present.

You will also find it helpful to refer to the "Notice of Procedural Safeguards," which is on the Department of Education's web site at http://www.doe.state.de.us/exceptional_child/ececehome.html.

27. What are some of the rules regarding an impartial due process hearing?

1. A parent, district, or State agency may request a hearing concerning any right or entitlement under Special Education Services.
2. A hearing is started by sending a **written request** to the Secretary of Education. (Townsend Building, 401 Federal Street, P. O. Box 1402, Dover, Delaware, 19903-1402). The phone number for the Secretary's office is **(302) 739-4601**.
3. When the Secretary of Education receives a request for a hearing, he or she will appoint a hearing panel consisting of an attorney, an educator knowledgeable in special education, and one person who has shown interest in the education of the disabled from a Registry of Impartial Hearing Officers maintained by the Department of Education.
4. The district or State agency will inform the caregiver of any free or low-cost legal and other relevant services available whenever the caregiver requests the information.

Other rules for a due process hearing may be found in your "*Notice of Procedural Safeguards*," which you will receive from the school district.

28. What information has to be included when writing to the Department

Impartial Due Process (cont.)

of Education to request an impartial due process hearing?

1. The name of the child.
2. The address of the residence of the child.
3. The name of the school the child is attending.
4. A description of the problem of the child and facts relating to the problem.

29. What are the rights of caregivers at a hearing?

The caregiver may:

1. Be accompanied and advised by counsel.
2. Present evidence and confront, cross-examine, and compel the attendance of witnesses.
3. Not allow the introduction of any evidence at the hearing that has not been made known to that party at least 5 business days before the hearing.
4. Obtain a written or electronic, verbatim record of the hearing; and
5. Obtain written or electronic findings of fact and decisions at no cost to the caregiver.

The caregiver may also:

1. Have the child who is the subject of the hearing present.
2. Open the hearing to the public.

30. How long does it take to have a disagreement settled?

The Secretary of Education guarantees that no later than 45 days after receiving a request for a hearing:

1. The hearing is conducted.
2. A final decision is reached in the hearing.
3. A copy of the decision is mailed to each of the parties.

31. What happens once the due process hearing panel reaches a final decision?

When the impartial due process hearing panel reaches a final decision, the chairperson records the vote of each panelist. The chairperson will forward a copy of its final decision to the parties, including the Department of Education.

32. What can I do if I disagree with the decision of the hearing panel?

Any party that disagrees with the decision of the hearing panel may file a civil action in the Family Court. You must file the complaint within 30 days of the date of the decision.

The Court will receive the records of the proceedings, hear additional evidence at the request of a party, and will make a decision.

State Complaint Procedure

33. How do I complain about special education services?

A caregiver can submit a written complaint regarding special education to the Director of the Exceptional Children and Early Childhood Group at the Department of Education, P. O. Box 1402, Dover, DE 19903. The complaint must be filed within one year of the alleged violation (unless the violation is a continuing one or the complaining party is seeking compensatory services). If the complaint is the subject of a due process hearing, the State must wait until the conclusion of that hearing to hear the complaint. The complaint procedure can be followed with other portions of the complaint that are not being addressed at the due process hearing.

State Complaint Procedure (cont.)

34. What are the State's responsibilities regarding complaints?

The State must:

1. Respond to the complaint within 60 days of the complaint being filed.
2. Carry out an independent on-site investigation if necessary.
3. Give the person filing the complaint the chance to send in additional information, either orally or in writing, about the complaint.
4. Review all relevant information and make an independent decision as to whether the public agency is violating a requirement of the Individuals with Disabilities Education Act (IDEA).
5. Issue a written decision to the complainant that addresses each allegation in the complaint.
 - The report will include the decision based on fact and conclusions and
 - The reasons for the final decision.

The Rehabilitation Act, Section 504

35. What is the Rehabilitation Act (Section 504)?

The Rehabilitation Act, "Section 504," is a federal civil rights law that prohibits schools receiving federal funds from discrimination against a child based on his or her disability. Under this law every child, regardless of disability, is entitled to a "free, appropriate public education." Every child who is entitled to services under IDEA is also protected by Section 504. However, Section 504 covers all children with disabilities, not just those who qualify for special education under the IDEA.

The Rehabilitation Act, Section 504 (cont.)

36. What is a Section 504 Plan?

The law requires school districts to accommodate the student's disability so that his needs are met as adequately as the needs of non-disabled students. A 504 Plan is a list of accommodations and services that will be provided to a child in order to give him or her the opportunity to receive a "free, appropriate public education." A child who has a disability within the meaning of Section 504 is entitled to receive any special education services the team decides are necessary to achieve this aim. The team consists of people who are knowledgeable about the child, including parents, teachers, and others.

37. The relative child in my care does not qualify for services under the IDEA. Can she be eligible for Section 504 services?

If the child does not qualify for special education services under the IDEA, she may still qualify for services under Section 504.

38. Who is entitled to receive services under Section 504?

An individual may be entitled to services if he or she meets the definition of an individual with a disability under Section 504. 504 Plans are available to any student who has a physical or mental impairment that greatly limits a major life activity (such as learning, walking, breathing, talking, etc.) or has a record of such an impairment or is considered as having such an impairment.

If a child's disability impacts his or her ability to learn, and accommodations under Section 504 are not sufficient to provide him or her with a free, appropriate public education, he or she will likely meet the eligibility criteria for the IDEA.

39. How do I get a 504 Plan for the relative child in my care?

If you think the child should receive accommodations under Section 504, you should make a written request asking the school to evaluate your child for eligibility for accommodations under Section 504. Keep a photocopy of all correspondence with the school. If the school refuses to evaluate the child, you can appeal. If the school does the evaluation and finds that the child is not disabled and you disagree, you can appeal that decision too.

For More Information

40. Where can I get written information about special education, mediation, and the impartial due hearing process?

You can request a copy of *Notice of Procedural Safeguards*, a manual describing your due process rights. You can also check the *Administrative Manual for Special Education Services* and the *Resource Guide to the Implementation of Section 504 in Delaware Public Schools*. The Delaware Department of Education (DOE) publishes these documents. You can call DOE at **(302) 739-5471** or view them on the DOE web site, [**http://www.doe.state.de.us/exceptional_child/ececehome.html**](http://www.doe.state.de.us/exceptional_child/ececehome.html)

10 Child Support

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Introduction

If you are caring for a relative's child, you may be entitled to financial support from the child's parents. If the child you are caring for becomes a parent, he or she may be eligible for support from the baby's other parent. This chapter will inform you about Delaware's child support enforcement services.

1. What is "child support"?

Every parent has a legal duty to support their child (children). Any caregiver has the right to seek support from the child's parents if support is not voluntarily given. If a parent is unable to pay due to disability, the Court may suspend the order or enter only a minimal order. Investigate Social Security or Veterans' Benefits as possible resources if it is appropriate for each child.

For information on Social Security benefits, call **1-800-772-1213** or if you are in New Castle County – **(302) 323-0304**; Kent County – **(302) 674-5162**; or Sussex County– **(302) 856-9620**. For information on Veterans' Benefits, call the Delaware Commission of Veterans Affairs in Dover at **(302) 739-2792** or **1-800-344-9900**.

If you receive public assistance (Temporary Assistance for Needy Families -TANF) or Medicaid benefits for the child, your case will automatically be referred to the Delaware Division of Child Support Enforcement (DCSE). If you do not receive public assistance, you may apply for the Division's assistance by filing an application directly with DCSE.

The Division of Child Support Enforcement's services include:

- Parent Locate
- Paternity Establishment
- Order Establishment, Modification and Enforcement
- Accounting

In some cases, DCSE performs only accounting services, tracking incoming payments and sending them on to the custodian.

To obtain these services, there is a \$25.00 application fee. The fee can be waived under certain conditions.

2. What are the advantages of seeking support through DCSE?

A team of Deputies Attorney General (DAG) from the Department of Justice provides guidance to the Division of Child Support Enforcement (DCSE) in the processing of child support cases. A DAG will also be present at any Family Court hearings at the commissioner's (see Glossary) or judge's level if you are a DCSE client.

You also have the option to process your own case through the Family Court or to retain a private attorney. Some caregivers retain the services of a private attorney while also using the Division's services. This is permissible as long as DCSE is informed about any actions taken by your private attorney to avoid any duplication of effort.

3. Can a minor who has a child seek support for his or her own child?

Although a minor may seek support, Family Court requires an adult to be involved in the process as well to protect the rights of the minor. The court can appoint a "guardian *ad item*" (see Glossary) if no adult comes forward to represent the minor.

Only the natural or adoptive parents of a child can be held responsible for child support.

Minor parents have the right to seek support. However, orders against minors are generally minimal amounts because of the limited earning capacity of most minors.

4. How is child support collected?

Most child support payments are collected through wage attachment. The Non-Custodial Parent's (NCP) employer is ordered to deduct the ordered amount from the NCP's wages and send it to the Division of Child Support Enforcement (DCSE). DCSE then sends the appropriate payment to the caregiver.

Parents who fail to pay as ordered may be subject to a variety of enforcement solutions such as:

- Interception of State/Federal tax refunds
- Denial/Suspension of driver's, professional, business or recreational licenses
- Liens on personal property
- Passport denial

Enforcement solutions are applied automatically as cases meet established eligibility criteria.

5. Can a child support order be changed?

Orders can be recalculated following significant changes in the circumstances of either party. To request a modification of an existing order, contact the Division of Child Support Enforcement's Customer Service Unit (see Resources) for guidance. Outcomes of modifications are not predictable; an order may increase, decrease or remain the same.

Family Court's "Rules of Support," signed by every party responsible for the child, requires parties to keep each other informed of substantial changes in financial circumstances and to exchange financial information every 12 months from the date the support order is entered.

6. What if the birth parent lives in another state?

The fact that a parent lives outside of Delaware should not keep you from seeking support. The federal Office of Child Support Enforcement oversees the child support programs in every state. This federal connection supports the processing of cases among all of the states through the Uniform Interstate Family Support Act. States use standardized forms and observe federally established time frames for handling interstate matters. A number of other countries also cooperate in this same manner.

7. How can I get additional information on child support issues?

The Division of Child Support Enforcement operates an Automated Assistance Line, through which you can connect to the Customer Service Unit during normal working hours.

The numbers are:

New Castle County
Kent County
Sussex County

(302) 577-7171
(302) 739-8299
(302) 856-5386

8. Must the Division of Child Support Enforcement (DCSE) let every parent who is asked to pay child support know where the child and caregiver live?

In some cases, a caregiver child support applicant's address can be kept from the parent who will be paying child support through the Good Cause exception. Some examples of when Good Cause is applicable are when the parent has physically harmed the child in the past, where rape or incest resulted in the conception of the child, and where the mother is considering placing the child for adoption.

9. Does receiving child support have any effect on other benefits I may be receiving?

It may. If the child support payment is more than the amount the child receives from TANF (Temporary Assistance for Needy Families), the child will no longer receive money from TANF. Medicaid is not affected unless the child support payment is so much that the child no longer meets the maximum income. If the child is receiving Supplemental Security Income, child support is counted towards financial eligibility like any other income.

11

The Family Court

For Information On:

See Question #:

Aftercare (Glossary)	18, 19, 21, 23
Bail hearing	10
Bond order	11, 12
Cash bond (Glossary)	11, 12
Criminal activity	8, 16
Department of Services for Children, Youth and Their Families (Resources)	14, 18
Division of Youth Rehabilitative Services (Resources)	18, 22
Family Court	Introduction, 1, 2, 3, 4, 5, 6, 9, 10, 11, 15, 17
Family Court Fees	2
Fee waiver – Motion to Proceed In Forma Pauperis	2
Justice of the Peace court	9
Juvenile (Glossary)	8
Juvenile Justice System	6
Office of the Attorney General	13
Preliminary hearings	10
Probation (Glossary)	18, 19, 21, 23
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Secured bond (Glossary)	11, 12
Self-Help Center	4
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Introduction

If you have responsibility for a grandchild and he gets into trouble, you may find that you need to understand the juvenile justice system. Chapter 11 explains the role of Family Court in Delaware and what to do if your grandchild is put in jail. For more detailed information, contact the Family Court in your county. Phone numbers are listed below in question 5.

What Family Court Does

1. What issues does Family Court handle?

Family Court in Delaware handles issues about who is the father of a child (paternity), child custody and visitation, child support, and protection from domestic violence.

2. Does the Family Court charge fees?

Yes, Family Court charges a filing fee for most of the petitions filed. If a person cannot afford to pay the fee, he or she can file a Motion to Proceed In Forma Pauperis, which is an application to have the fee waived. There is no fee for filing a Petition for Order of Protection From Abuse within the Family Court system.

3. Can I see my records at Family Court?

Yes, you may view the Family Court records that are about you or the child in your care. Those records are available in the Records Unit at the Family Court. Family Court may charge for photocopies of records. A person is not allowed to see records about other people.

4. What is the court resource center?

Family Court buildings have resource centers that have materials written in everyday English to help people learn about and file petitions in Family Court. The resource center in New Castle County is called the Self-Help Center. In Kent and Sussex counties, it is called the Resource Center.

The centers are also staffed with Court employees who can direct people to the appropriate materials.

5. Where can I find the Family Court?

There is a Family Court facility located at the courthouse in each county:

New Castle – 4th and King Streets:	(302) 255-0300
Kent County – Court Street in Dover:	(302) 739-6500
Sussex County – on the Circle in Georgetown:	(302) 856-5601

The Juvenile Justice System

6. What is the Juvenile Justice System?

When a person who is less than 18 years of age is accused of violating the criminal law, that person will enter the Juvenile Justice System. There are four parts to the Juvenile Justice System:

- Police
- Family Court
- Public Defender's office
- Division of Youth Rehabilitative Services

7. How many police agencies are in Delaware?

In Delaware, there are several police agencies, each with a particular geographic area of responsibility.

Delaware's largest police agencies are:

The Delaware State Police	(302) 739-5871
The New Castle County Police	(302) 573-2800
The City of Wilmington Police	(302) 654-5151
The City of Newark Police	(302) 366-7111
The City of Dover Police	(302) 736-7100

8. What is the role of a police officer?

The police are responsible for enforcing the law. That means that a police officer will investigate a complaint about criminal activity and arrest a person accused of that activity. When the person arrested is under the age of 18 (a juvenile), that person enters the Juvenile Justice System.

Your Minor Grandchild is Accused of Committing a Crime

9. How soon after the arrest is the juvenile's custodian notified?

Delaware law requires that when a police officer arrests a juvenile, that police officer must immediately notify the juvenile's custodian of the arrest and the reasons for it. If the custodian either refuses to accept the juvenile, cannot be located, or cannot adequately care for the juvenile, the police officer must take the juvenile to Family Court (if it is open) or to a Justice of the Peace court.

10. How does the Family Court handle delinquency cases?

If a child who has committed an act which, if committed by an adult would be a crime, he or she is usually considered by Family Court to be "delinquent." Family Court deals with cases of a child's delinquency. Initially the bail hearing and the preliminary hearings are held in Family Court. If the child is accused of committing a very serious offense, for instance, murder, rape, or kidnapping, the child **will** be treated as an adult and the case handled by the Superior Court.

In cases where the child is at least 16 years old, was found guilty of a felony in the past and is accused of another very serious offense, that child may also be treated as an adult and sent to the Superior Court.

The rest of this chapter is based on the child being accused of a delinquent act and treated as a juvenile.

11. What happens to the juvenile once arrested?

After arrest, the child is presented to Family Court (or if it is after hours, a Justice of the Peace Court) so that the Court can set bond. In other cases the Court may order a parent, custodian, guardian or caregiver to post a cash or secured bond.

12. What are secured and cash bonds?

A secured bond is a designated amount of money or security such as a title to property worth at least as much as the ordered bond amount. A cash only bond is payment of a designated amount of money to the Court.

Both bonds require the signing of a bond order guaranteeing the appearance of the defendant at further court hearings.

13. Who prosecutes juvenile cases?

The Office of the Attorney General prosecutes juvenile cases. The Deputy Attorney General works for the Delaware Department of Justice.

14. What is a plea bargain?

Before the trial actually takes place, the prosecutor and often a social worker employed by the Department of Services for Children, Youth and Their Families (DSCYF) will discuss with the child and parents, custodian, guardian, or caregiver choices for closing the case without a trial. This process is sometimes called plea bargaining. Plea bargaining involves the child accepting responsibility for his or her actions, but does not always result in a lesser penalty. It is very important that a defense lawyer help the child in this process.

15. Should I hire an attorney?

You may hire a defense attorney or you may have an attorney appointed by Family Court. The Court considers the child - not the child's caretaker - as the client. Because of this, almost all children are eligible for a public defender if they wish.

16. What is the job of a public defender?

The Office of the Public Defender provides defense lawyers to people accused of criminal or delinquent activity who cannot afford to hire a lawyer. The public defender has an office in each county in Delaware.

Public Defender Offices:

New Castle County	(302) 577-5200
Kent County	(302) 739-4476
Sussex County	(302) 856-5310

17. Can the juvenile have a trial by jury?

No, the right to a jury trial does not apply in juvenile cases. Even though the child's case is criminal in nature, Family Court treats it as a civil delinquency case. Many of the other rights of criminal defendants apply in delinquency cases.

Detention Centers and Probation

18. What is the Division of Youth Rehabilitative Services?

The Division of Youth Rehabilitative Services (DYRS) is part of the Delaware Department of Services for Children, Youth and Their Families. DYRS operates the youth detention facilities in Delaware. DYRS also operates the probation and aftercare system for juvenile delinquents. For more information, contact DYRS at **(302) 633-2620**.

19. What are probation and aftercare?

Probation is a certain time span when a child must comply with conditions and behaviors prescribed by the Court or by a probation officer. Probation is for a limited time, and a violation of a condition may result in incarceration.

Aftercare is similar to probation, but follows a period of incarceration.

20. Where are the youth detention facilities in Delaware?

Ferris School (Wilmington):	(302) 993-3800
New Castle County Detention Center (Wilmington):	(302) 633-3150
Stevenson House (Milford):	(302) 422-1407

21. When can the court send a child to a youth detention facility?

The court may send a child into state custody after arrest but before any trial of delinquency. He or she may be sent to the New Castle County Detention Center or the Stevenson House. If the child is found guilty of the crime for which he or she was arrested, then the court may send the child to a juvenile detention facility, usually the Ferris School, or place him or her on probation. A child placed at the Ferris School will often be required to participate in aftercare when released from the Ferris School.

22. Is it possible for a juvenile to be placed in an out-of-state facility?

Yes, in some cases the Court will order the Division of Youth Rehabilitative Services to place a child in an out-of-state facility when there is no facility in Delaware that offers the services or treatment that child needs.

23. What happens when a child is placed on probation or aftercare?

When a child is placed on probation or aftercare, the parent, custodian, guardian, or caregiver will receive a letter or telephone call from the worker who will be working with the child throughout the period of probation or aftercare.

The child must report to the worker at the place and time arranged and must obey any other conditions ordered by the Court. The child must report any change of address or telephone number within three days, and must have parental, custodial, guardian or caregiver's permission to be away from home longer than 24 hours. The child must also inform the worker if he or she is charged with any criminal or delinquent offense.

12

Future Planning for You and Your Grandchild

For Information On:

See Question #:

Community Legal Aid Society, Inc. (Resources)	5, 10
Custody	1
Financial Affairs	2, 6, 7, 8, 9
Guardian	4, 9
Incompetent	7, 8
Living arrangements	2
Living Wills	3

Introduction

Whether or not you have the main responsibility for the child you care for, you may want to provide for his or her financial future in the event of your death. If you do have the main responsibility for the child, you want him or her to be protected should you become ill or disabled. This section explains the legal choices you have for planning for the future with the child's interests in mind.

Why You Need a Will

1. What is the purpose of a Will?

A Will is a document that can explain what should happen to your property and possibly to the child you care for when you die. It also says who should handle your affairs. If you have custody of your grandchild, your Will should say who you want to take custody of the child when you die. Even if you do not have formal, legal custody of the child, it is a good idea to write down your wishes in your Will.

2. Why do I need a Will?

If you do not have a Will, state law will determine who gets your property. The child in your care may not be included. By recording your wishes in a Will, you can make sure the child you care for is taken care of financially and in living arrangements. If you do not wish someone to receive your property, your wish will be honored if included in a written Will.

3. What is an Advance Health Care Directive?

An Advance Health Care Directive (AHCD) allows you to give instructions about your own health care and to name someone else to make health decisions for you when you lack the ability to make decisions for yourself. An Advance Health Care Directives form is included in the Forms section of *Delaware's Legal Handbook for Grandparents & Other Relatives Raising Children: A Legal Resource for People Caring for the Children of a Relative*. AHCDs are sometimes referred to as Living Wills. In an Advance Health Care Directive, you can specify if you want:

- CPR or not.
- To be kept on life-support and/or receive a feeding tube if you become permanently unconscious or have a terminal condition.

- To make organ donations and/or donate your body for research.
- To receive treatment for pain at all times, even if it will hasten your death.

4. Why do I need an Advance Health Care Directive?

If you do not have an Advance Health Care Directive, your family may not be able to agree on your medical treatment. Someone may have to go to court to be appointed your guardian, at your expense. You may be kept alive longer than you wish if you become permanently unconscious and/or are terminally ill. Having an Advance Health Care Directive in place makes it easier for your doctors and your family to understand and follow your wishes.

5. Does an Advance Health Care Directive have to be prepared by an attorney?

No. An Advance Health Care Directive does not have to be prepared by an attorney; however, an attorney will make sure it meets the legal requirements and contains everything you want and need. The Advance Health Care Directive form does not contain all of the choices permitted under Delaware law. If you want to change the form, you may want to contact a lawyer. If you are disabled or over age 60, it is likely that your local Community Legal Aid Society, Inc. office can prepare one for you at no cost. Contact the Community Legal Aid Society Inc. office in your community for assistance: New Castle County (302) 575-0660, Kent County (302) 674-8500, and Sussex County (302) 856-0038.

Power of Attorney

6. What is a Power of Attorney?

A Power of Attorney is a legal document that gives someone else permission to handle your financial affairs.

7. Why do I need a Power of Attorney?

A durable Power of Attorney allows someone else to handle your finances should you become incompetent, that is, unable to make decisions due to your mental or physical condition. You can give this power to one person or two people. You can decide if they have to act together or if each can act on his or her own. You can also pick someone else to handle your finances if your first choice(s) are not able to do so.

8. Must I be incompetent before my Power of Attorney can become effective?

No. You can make the Power of Attorney effective immediately, or you can decide that it can only be used when a doctor says you are no longer able to handle your own finances. You can make the Power of Attorney as broad or as limited as you want it to be. For example, the person can have permission to make deposits and withdrawals from your bank accounts, but not be able to change your life insurance policies.

9. Who should I pick to act on my Power of Attorney?

Pick someone you trust. If you do not have a Power of Attorney and become unable to handle your finances, a guardian whom you do not know and who does not know your wishes may be appointed.

10. By law, am I required to hire a lawyer to prepare my Power of Attorney?

No, you are not required to hire a lawyer to prepare your Power of Attorney. However, an attorney will make sure it meets the legal requirements and contains everything you want and need. If you are disabled or over age 60, it is likely that your local Community Legal Aid Society, Inc. office can prepare one for you.

Glossary

Adequate care: A type and degree of personalized attention that will tend to advance a child's physical, mental, moral, emotional and general well-being.

Adjudicatory hearing: A Family Court hearing which occurs after a child has been removed from the custody of a parent or guardian on an emergency basis and placed with the Division of Family Services (DFS).

Advance Health Care Directive: A document in which a person gives his or her wishes regarding medical treatment in the event of incapacitation.

Affidavit: A written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a person having authority to administer such oath or affirmation.

Aftercare: Similar to probation, but follows a period of incarceration.
(see *Probation*)

Allegation: A statement in a lawsuit that a party will attempt to prove. A statement not yet proven.

Best interest of the child: The Court determines the custody and residential arrangements for a child by focusing upon the child's "best interest." Factors the Court considers in determining the child's best interest include, but are not limited to:

- wishes of the parent(s)
- wishes of the child
- relationship of the child with other people living in the household
- child's adjustment to the home, school and community
- mental and physical health of all individuals involved
- past and present compliance of both parents with their rights and responsibilities and
- evidence of domestic violence.

Cash bond: A cash bond is payment of a designated amount of money to the Court.

Clear and convincing proof (evidence): Generally, this phrase means proof beyond a reasonable, well-founded doubt. It is proof which should leave no reasonable doubt in the mind concerning the truth of the matters in the case.

Commissioner: A Family Court commissioner essentially exercises the duties and powers of a judge in issuing orders and making findings. A judge can overturn commissioners' orders.

Contempt of court: A person is in contempt of court when he/she is under the

Court's authority and disobeys or fails to cooperate with an order of the Court, or fails to comply with a responsibility he/she has been given.

Delinquent child: A child who has committed an act which, if committed by an adult, would be a crime, is usually considered by the Family Court to be "delinquent."

Dependent child: In the context of Family Court, a child whose physical, mental or emotional health and well-being is threatened or harmed because of inadequate care and protection by the child's custodian, who is unable to provide adequate care for the child whether or not caused by the child's behavior. *10 Del. C. §901(8)*

Dispositional hearing: A Family Court hearing held 30 days after the Adjudicatory hearing. At this hearing the judge decides if the placement of the child and the conditions of that placement are appropriate.

Ex parte hearing: Hearings in which the Court or tribunal hears only one side of the controversy.

Guardian *ad item*: An attorney who is appointed to represent a child's best interests. Referrals to the Office of the Child Advocate for a guardian *ad item* come from the Division of Family Services, the court, or anyone else who believes that a child needs such representation.

Hearsay: A statement made out of court which is offered to prove the truth of the information in the statement.

Impartial due process hearing: In the context of special education, the purpose of a due process hearing is to address the identification, evaluation and educational placement of a child for the provision of a free, appropriate education.

Incompetent: Not capable of making decisions because of mental or physical condition.

Individualized Education Plan (IEP): Puts in writing the educational plan for a child who is eligible for special education services under IDEA.

IDEA: A federal law that establishes the provision for special education and related aids and services to eligible children ages 3 - 21 with disabilities.

Juvenile: A person who has not yet reached the age at which he or she should be treated as an adult for purposes of criminal law. Under the federal Juvenile

Glossary

Delinquency Act, a "juvenile" is a person who has not attained his 18th birthday.
18 U.S.C.A. §5031

Law citations: *13 Del. Code § 1103* - 13 is the Title of the law in Delaware code (law), § is the subsection of that law where you will find the exact part of the law you need.

Neglected child: A child whose physical, mental or emotional health and well-being is threatened or impaired because of inadequate care and protection by the child's custodian, who has the ability and financial means to provide for the care but does not or will not provide adequate care. *10 Del. C. §901(11)*

Petitioner: One who files an action in court.

Power of Attorney: A legal document that gives someone else permission to handle one's finances.

Probable cause: Reasonable belief that certain facts and circumstances exist.

Probation: A certain time span when a child must comply with conditions and behaviors prescribed by the court or by a probation officer. Probation is for a limited time, and a violation of a condition may result in incarceration.

Rehabilitation Act, Section 504: a federal civil rights law that prohibits schools receiving federal funds from discrimination against a child based on his or her disability.

Respondent: The person against whom an action is filed.

Secured Bond: A designated amount of money or security such as a title to property worth at least as much as the ordered bond amount.

Section 504: The Rehabilitation Act: A federal civil rights law that prohibits schools receiving federal funds from discrimination against a child based on his or her disability. A 504 Plan is a list of accommodations and services that will be provided to a child in order to give him or her the opportunity to receive a "free, appropriate public education."

Social Study: An evaluation of a child, the home and the suitability of the placement, with a recommendation for or against a petition for guardianship.

Subsidy: A grant of money made by government for the benefit to the public.

Resources Phone Number List

HOTLINES

Domestic Violence Hotline

Child, Inc.,

New Castle County:

(302) 762-6110

The Domestic Violence Hotline provides 24-hour crisis intervention counseling services and related services for victims of domestic violence. The Hotline accesses shelters and may place families in one or two shelters for battered women in New Castle County. Shelter locations are protected.

Delaware Help Line, Inc.

1-800-464-4357

www.delawarehelpline.org

Delaware Help line, Inc. (a United Way Agency) is a statewide, toll-free telephone information and referral service that provides Delawareans with information to over 2,200 health and human service programs. Delaware Health and Social Services and the Department of Administrative Services sponsor this program to coordinate and improve state government information and to assist people who are in crisis or facing a problem in accessing needed community services.

CONTACT Crisis Hotline

1-800-262-9800

CONTACT is a help line providing suicide prevention, counseling, crisis intervention, and information and referral to persons in crisis or stress situation.

Child Abuse and Neglect Hotline

1-800-292-9582

Department of Services for Children, Youth and Their Families

The Child Abuse and/or Neglect Report Line is a 24-hour hotline operated by the State Division of Family Services. Any Delawarean who knows or suspects that a child is being neglected or abused sexually or physically must, under Delaware law, report the case to the Division of Family Services. Anonymous calls will be accepted.

GOVERNMENT PROGRAMS

Adult Protective Services

Delaware Health and Social Services

Division of Services for Aging and Adults with Physical Disabilities

Resources Phone Number List (cont.)

New Castle County: (302) 453-3820
Kent County & Sussex County: (302) 422-1386
www.DSAAPD.com 1-800-223-9074

Adult Protective Services provides assistance to infirmed disabled adults (18 years or older) who are impaired in their ability to provide adequately for their own care or custody and are subject to physical or psychological injury, neglect, exploitation, or abandonment.

Violent Crimes Compensation Board State of Delaware

New Castle County: (302) 995-8383
Kent County and Sussex County: 1-800-464-4357

The Board financially assists crime victims who sustain physical and emotional injury as a result of a violent act in Delaware regardless of residency. Covers medical and mental health care expenses, wage loss, some out-of pocket expenses and loss of support as well as funeral and burial costs for which the victim would not receive reimbursement from any other source. Victims must use any insurance program/ policy available to cover expenses.

Educational Surrogate Parent Programs State of Delaware

New Castle County: (302) 577-3545

The Educational Surrogate Program (ESP) provides trained volunteers to represent the interests of special education children in state custody whose parents are not available. The ESP program has authority to act on the child's behalf in all decision making processes concerning the child's educational placement and services. The program also provides early intervention services for children ages birth to three who have some type of developmental disability.

CARE Delaware Delaware Health and Social Services Division of Services for Aging and Adults with Physical Disabilities

New Castle County: (302) 453-3820
Kent County and Sussex County: (302) 424-7310
All DSAAPD offices can be contacted at: 1-800-223-9074
E-mail: DSAAPDinfo@state.de.us
www.DSAAPD.com/caregive.html

CARE Delaware: Caregiver Assistance – Respite – Education is a program which conducts various support activities for caregivers who are caring for seniors

who are 60 + years of age. CARE Delaware offers Caregiver Information, Needs Assessment, and Care Planning. In this program experienced DSAAPD employees will assess caregivers' needs, assist caregivers in gaining access to services and care planning and also conduct outreach in the community. Statewide Caregiver Resource Centers, which are libraries for videos, books, pamphlets and other resources on caregiving are also available. CARE Delaware also offers respite programs such as the Grand Time Off childcare program and the Summer and Holiday Camp Respite program for grandparents and other relatives who are raising other relatives' children.

Division of Social Services (DSS) Delaware Health and Social Services

New Castle County: **(302) 255-9500**
www.state.de.us/dhss/dss/index.html

This is the administrative office for the Division of Social Services (DSS). Programs include the Kinship Care Program; Temporary Aid for Needy Families; Subsidized Child Care; Employment & Training Program; Medical services including Medicaid; Delaware Healthy Children Program; Long-Term Care Medicaid; Medicaid Waiver Services – Elderly and Disabled, AIDS, Mental Retardation; Disabled Children's Program; and Qualified Medicare Beneficiary Program.

Division of Child Support Enforcement Delaware Health and Social Services

New Castle County: **(302) 577-7171**
Kent County: **(302) 739-8299**
Sussex County: **(302) 856-5386**
www.state.de.us/dhss/dcse/index.html

Provides help in obtaining, modifying and enforcing child support orders, wage attachments, federal and state tax intercept programs, collection and disbursement of support payments, paternity testing and absent parent location. This office is required to report all cases in which the criteria for sexual predator's law are met.

Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) Delaware Health and Social Services

New Castle County: **(302) 453-3820**
Kent County and Sussex County: **(302) 424-7310**
Administration Offices in New Castle County: **(302) 255-9390**
All DSAAPD offices can be contacted at: **1-800-223-9074**
E-mail: DSAAPDinfo@state.de.us
www.DSAAPD.com

Resources Phone Number List (cont.)

The Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) provides a broad range of programs and services in Delaware. Some of these programs and services are operated directly by DSAAPD staff. Others are funded through this agency and operated under contract by outside organizations. The following is a listing of the services and programs operated or funded by DSAAPD: Adult Day Services, Adult Foster Care, Adult Life Skills, Adult Protective Services, Alzheimer's Day Treatment, Alzheimer's Respite, Assisted Living, Assistive Devices, Attendant Services, and Case Management. Community Living Respite, Congregate Meals, Delaware Medicare Fraud Alert, Delaware Money Management Program, Eldercare in the Workplace, Emergency Response System, Hispanic Outreach, Home Delivered Meals, Home Modification, Housekeeping, Information and Assistance, and Joining Generations. Legal Services, Long Term Care Ombudsman program, Medicaid Waiver for the Elderly and Disabled, Medical Transportation, Personal Care, Respite Care, and the Senior Community Service Employment Program.

Joining Generations

Family Circles

1-800-223-9074

Grand Time Off

(302) 479-5101

Camp Respite

Local YMCA or Boys & Girls Club

Joining Generations administers the *Family Circles* support and education program for grand relatives raising other relatives' children; the Grand Time Off childcare respite program, which is operated by The Family & Workplace Connection; and the Camp Respite program, which is operated by the YMCA and Boys & Girls Clubs during the summer and school holidays. Call the nearest organization for more information. Joining Generations also provided the initiative and support for this "*Delaware's Legal Handbook for Grandparents & Other Relatives Raising Children*".

Department of Services for Children, Youth and Their Families (DSCYF)

New Castle County:

(302) 633-2655

Kent County and Sussex County:

1-800-464-4357

www.state.de.us/kids

The Department of Services for Children, Youth and Their Families serves abused, neglected, dependent, delinquent, mentally ill or emotionally disturbed children, youth and their families. The Division includes the following programs: Child Mental Health **(302) 633-2600**, Management Support Services **(302) 633-2510**, Family Services **(302) 633-2650**, and Youth Rehabilitative Services **(302) 633-2620**.

COURTS

Family Court State of Delaware

New Castle County:	(302) 255-0300
Kent County:	(302) 739-6500
Sussex County:	(302) 856-5601
Toll-Free Report Line:	(800) 292-9582

www.courts.state.de.us/family/index.html

Family Court holds jurisdiction on all juvenile (under 18 years of age) and family matters, including juvenile delinquency, misdemeanors committed against juveniles, divorce and annulment, property division, alimony, enforcement of separation agreements, child custody and visitations, termination of parental rights, adoption, nonsupport of dependents, paternity, child abuse, neglect, and dependency and intra-family crimes.

State of Delaware, Public Defender

New Castle County:	(302) 577-5222
Kent County:	(302) 739-4476
Sussex County:	(302) 856-5310

www.state.de.us/pubdefen/index.html

The Public Defender's Office is charged with representing individuals accused of crimes in criminal matters where the individual cannot afford private counsel.

Office of the Attorney General Department of Justice

New Castle County:	(302) 577-8400
Kent County:	(302) 739-7641
Sussex County:	(302) 856-5353

www.state.de.us/attgen/index.html

The Attorney General is head of the Department of Justice, which represents all of the legal interests for the State and its various officers and agencies. The Civil Division provides legal representation to the State and its agencies and officers. The Criminal Division prosecutes individuals accused of committing crimes in Delaware. The Fraud Division operates the Office of Consumer Affairs and also prosecutes persons accused of violating the securities and Medicaid laws in the State of Delaware.

Court Appointed Special Advocates (CASA)

New Castle County:	(302) 255-0461
Kent County:	(302) 739-6553
Sussex County:	(302) 856-5315

Resources Phone Number List (cont.)

CASA volunteers are court appointed special advocates for children. Volunteers are trained and appointed by a judge to speak to abused and neglected children in court. CASAs conduct independent investigations and provide reports/recommendations to the Court on behalf of the child. CASAs are represented by attorneys in Court and are supervised by program staff.

Stevenson House

Kent County and Sussex County: **(302) 424-8100**

Stevenson House is a juvenile detention center for juveniles awaiting trial in Kent and Sussex Counties. Stevenson House is run by the Division of Youth Rehabilitation Services, Department of Services for Children, Youth and Their Families.

New Castle County Detention Center

New Castle County: **(302) 633-3150**

This facility is a juvenile detention center for juveniles awaiting trial in New Castle County. It is run by the Division of Youth Rehabilitation Services, Department of Services for Children, Youth and Their Families.

Ferris School for Boys

New Castle County: **(302) 993-3800**

Ferris School provides a 6 to 9 month total learning environment that provides comprehensive program services in a safe, secure environment for Family Court committed youth. The Ferris School is run by the Division of Youth Rehabilitation Services, Department of Services for Children, Youth and Their Families.

Division of Youth Rehabilitative Services (DYRS)

Department of Services for Children, Youth and Their Families

New Castle County: **(302) 633-2620**

www.state.de.us/kids/yrshome.html

DYRS administers State Correctional services for juveniles under the age of 18, and secure and open treatment services for incarcerated youth.

State of Delaware, Office of the Child Advocate

New Castle County: **(302) 577-6830**

The Office of the Child Advocate is an independent office which monitors child protection efforts statewide. One goal of the program is to make legal resources available to represent the best interests of all neglected or abused children in the state of Delaware.

FAMILY VISITATION CENTERS

Hudson State Service Center Child, Inc.

New Castle County: (302) 451-2825

Georgetown State Service Center People's Place II, Inc.

Sussex County: (302) 424-2420

Family Visitation Center - Dover People's Place II, Inc.

Kent County: (302) 242-2420

Family Visitation Center - Milford People's Place II, Inc.

Kent County: (302) 242-2420

Family Visitation Centers were created to help address custody and visitation issues in families with a history of abuse. Visitation Centers provide two essential services depending on family history: Supervised exchange of children for off-site visitation and monitored on-site visitation for children who have experienced domestic violence or sexual abuse.

LEGAL SERVICES

Community Legal Aid Society, Inc. (CLASI)

New Castle County: (302) 575-0660

Kent County: (302) 674-8500

Sussex County: (302) 856-0038

www.declasi.org

Community Legal Aid Society, Inc. provides civil legal services to people with low incomes who cannot afford an attorney, people sixty years of age and over, and individuals with disabilities. Cases include: Family (cases involving the State), housing and public benefits. Legal services include advice, representation and community education.

Disabilities Law Program Community Legal Aid Society, Inc.

New Castle County: (302) 575-0690

Resources Phone Number List (cont.)

Kent County: (302) 674-8500

Sussex County: (302) 856-0038

The Disabilities Law Program (DLP) protects the right of people with physical and mental disabilities. DLP provides counsel and advice, negotiation and representation in administrative and court proceedings, and individual and systems advocacy.

Elder Law Program

Community Legal Aid Society, Inc.

New Castle County: (302) 575-0660

Kent County: (302) 674-8500

Sussex County: (302) 856-4112

Delaware Volunteer Legal Services, Inc. (DVLS)

New Castle County: (302) 478-8680

Kent County and Sussex County: 1-800-773-0606

www.dvls.org

Delaware Volunteer Legal Services, Inc. provides assistance on civil legal matters to individuals below the poverty level. These services are provided at no cost. They handle wills, guardianships, powers of attorney, protection from abuse, custody, visitation, and some consumer matters and bankruptcy overflow from Legal Services Corporation of Delaware. Legal Services does not accept criminal matter or fee-generating cases.

Legal Help Link

Delaware Volunteer Legal Services

New Castle County: (302) 478-8850

Kent County and Sussex County: 1-800-773-0606

Legal Help Link works in conjunction with Delaware Volunteer Legal Services, Widener University School of Law, Community Legal Aid Society, Inc. and Legal Services Corporation of Delaware. Legal Help Link was set up as a centralized intake system that enables prospective clients to make one phone call to determine if they have a case that is handled by one of the four legal services organizations and whether the callers are eligible for client services.

Legal Services Corporation of Delaware (LSCD)

New Castle County: (302) 575-0408

Kent County and Sussex County: (302) 734-8820

www.lscd.com

LSCD represents low-income people in routine civil matters, primarily bankruptcy

proceedings, landlord-tenant, consumer issues and unemployment compensation. The program does not generally handle Family law cases, criminal cases or fee-generating cases such as personal injury lawsuits.

EDUCATION

Delaware Early Childhood Center, Early Choices

New Castle County:	(302) 323-5370
Kent County:	(302) 739-4707
Sussex County:	(302) 856-5909

Early Choices is an early childhood development special education program for three year old children with mild developmental delays and three and four year old children with speech delays. Children are provided early childhood special education and related services within their community. Services available include: referral, screenings, multidisciplinary assessment, early childhood special education, and related services such as speech therapy and behavior management. Services are available at no cost to parents.

Parent Information Center of Delaware (PIC/DE)

Toll Free:	888-547-4412
www.picofdel.org	

PIC/DE is Delaware's only federally funded mandated Parent Training and Information Center. It has staff and services in all three counties to help families who have questions and concerns about their child's disabilities or special needs and/or about their child's provision for education and related services. Family-School partners are available to assist families and professionals in understanding laws and regulations to secure appropriate services.

POLICE

Delaware State Police

New Castle County:	(302) 739-5871
Kent County and Sussex County:	(302) 856-5717
The New Castle County Police	(302) 573-2800
The City of Wilmington Police	(302) 654-5151
The City of Newark Police	(302) 366-7111
The City of Dover Police	(302) 736-7100

Resources Phone Number List (cont.)

ADVOCACY AGENCIES

Elderly Crime Victim Service Delaware Center for Justice

New Castle County: **(302) 658-7174**

The Elderly Crime Victim Service provides specialized assistance for New Castle County citizens over 50 who are victims of any type of crime. Services include home visits, medical and court accompaniment, assistance with Violent Crimes Compensation Forms, supportive counseling and follow-up, referrals to victim assistance network, and referrals to established senior support systems.

Delaware Centers, People's Place II

Kent County and Sussex County: **(302) 422-8026**
www.peoplesplace2.com

The People's Place II Counseling Centers, located in Dover and Milford, provide services to children and adults through individual, group, family and play therapy. Special services are available for substance abuse, gambling addictions, veterans, parent-child conflict, etc. In addition, medication management and psychological assessments are available.

National Alliance for the Mentally Ill in Delaware (NAMI-DE)

New Castle County: **(302) 427-0787**
Kent County: **(302) 734-2603**
Sussex County: **(302) 226-3334**

The Alliance advocates for better services for those affected by chronic mental illness. The Alliance offers a supportive atmosphere for families of the mentally ill. The public is welcome to attend the free, statewide meetings. They also sponsor support groups, allowing family members to share feelings, information and effective coping skills and mutual support.

ARC Advocacy Program

New Castle County: **(302) 996-9400**
Kent County: **(302) 736-6140**
Sussex County: **(302) 856-6019**

The ARC of Delaware offers case advocacy services, information and referral, technical assistance with basic needs, and an audio-visual library for individuals with mental retardation. A Family Trust Program assists parents wishing to establish a specialized trust for their children who have mental retardation.

Latin American Community Center

New Castle County: **(302) 655-7338**

The Latin American Community Center Social Services Program provides intake, short term case management, counseling, and advocacy for limited English-speaking clients to access services.

The Dupont Grandparent Resource Center Wilmington Senior Center

New Castle County: **(302) 651-3420**

www.wilmingtonseniorcenter.org

The Resource Center provides information and referral, case management, support group, education, and computer training for grandparents and other caregivers who are taking care of others' children. The Family Circles program is a discussion and education group for grandparents and relatives raising another's children meets weekly. Childcare is provided. Participants recommend topics of concern and interest to them.

Children and Families First

New Castle County: **(302) 658-8013**

Kent County and Sussex County: **(302) 422-8013**

Children and Families First (C&FF) provides care for children referred through the Division of Family services including those with specialized medical needs such as AIDS, and those who test HIV positive. The goal is to prevent inappropriate institutionalization. C&FF also, sustains and support foster parents caring for these children. C&FF offers voluntary foster care, short term care for newborn infants when parents are undecided about placing him or her with a relative, choosing adoption or caring for the child themselves.

Forms Used in Family Court and Referenced in This Document

- I.** Advance Health Care Directive
- II.** Caregivers' Medical Authorization Affidavit
- III.** Caregivers' School Authorization Affidavit (Sample)
- IV.** Dependency/Neglect Petition for Custody
- V.** Petition – Rule to Show Cause
- VI.** Petition for Support
- VII.** Petition for Order of Protection from Abuse
- VIII.** Petition for Visitation

Advance Health Care Directive
of

This form was developed by the Committee on Law and the Elderly of the Delaware Bar Association and approved for use by the Office of the Attorney General of the State of Delaware.

GENERAL INSTRUCTIONS

You should read this form carefully before filling it in. You should fill it in completely. If there are health care decisions you do not want to make, you should strike the wording of that decision rather than leave it blank. You may not change the qualifications for witnesses or agents, even if you cross out the wording. You should write legibly.

After you have filled out the form completely, you should sign the form before a notary public. Although signing before a notary public is not legally required, it is advisable. It is advisable because the notary, as well as your witnesses, can testify as to your competence when you sign the directive, if your competence becomes an issue. Notaries, who are registered with the State, are often easier to locate later than witnesses.

You should retain your original Advance Health care Directive, and give copies to your doctor, agent, spouse, family members, and close friends, if you desire. You should explain to each person who receives a copy of your health care directive what choices you made on the form, and why. This will help if, while you lack competence, there arises a need to make a health care decision that is not explicitly set forth on your advance health care directive form.

This form does not contain all of the types of health care decisions you are legally entitled to make. For example, the form does not give you the opportunity to nominate a guardian, in the event you become incompetent and need one. Also, the form does not give you the opportunity to designate a primary care physician, or another person, to certify that you lack the capacity to make your own decisions on health care. Finally, the form does not include a provision that accommodates a person's religious or moral beliefs. If you would like to exercise these options, you should talk to an attorney. If anything on the form conflicts with your religious beliefs, you should contact your clergy.

PART I. INSTRUCTIONS FOR HEALTH CARE DECISIONS

If you are an adult who is mentally competent, you have the right to accept or refuse medical or surgical treatment, if such refusal is not contrary to existing public health laws. You may give advance instructions for medical or surgical treatment that you want or do not want. These instructions will become effective if you lose the capacity to accept or refuse medical or surgical treatment. You may limit your instructions to take effect only if you are in a specified medical condition. If you give an instruction that you do not want your life prolonged, that instruction will only take effect if you are in a "qualifying condition." A "qualifying condition" is either a terminal condition or permanent unconsciousness.

If you want to give instructions to accept or refuse medical or surgical treatment, you should fill in the spaces on the following page. You may cross out any wording you do not want.

A. END OF LIFE INSTRUCTIONS

1. Choice To Prolong Life

_____ I want my life to be prolonged as long as possible within the limits of generally accepted health care standards.

OR

2. Choice Not To Prolong Life

I do not want my life to be prolonged if (please check all that apply)

_____ (i) I have a terminal condition (an incurable condition from which there is no reasonable medical expectation of recovery and which will cause my death, regardless of the use of life-sustaining treatment). In this case, I give the specific directions indicated:

	I want used	I do not want used
Artificial nutrition through a conduit	_____	_____
Hydration through a conduit	_____	_____
Cardiopulmonary resuscitation	_____	_____
Mechanical respiration	_____	_____
Other (explain) _____	_____	_____

_____ (ii) I become permanently unconscious (a medical condition that has existed at least four (4) weeks and has been diagnosed in accordance with currently accepted medical standards and with reasonable medical certainty as total and irreversible loss of consciousness and capacity for interaction with the environment. The term includes, without limitation, a persistent vegetative state or irreversible coma) and regarding the following, I give the specific directions indicated:

	I want used	I do not want used
Artificial nutrition through a conduit	_____	_____
Hydration through a conduit	_____	_____
Cardiopulmonary resuscitation	_____	_____
Mechanical respiration	_____	_____
Other (explain) _____	_____	_____

B. RELIEF FROM PAIN: Whether I choose A.1 or A.2, or neither, I direct that in all cases I be given all medically appropriate care necessary to make me comfortable and alleviate pain.

C. OTHER MEDICAL INSTRUCTION: If you wish to add to the instructions you have given above, you may do so here.

(use additional sheets if necessary)

PART II: POWER OF ATTORNEY FOR HEALTH CARE

Your agent may make any health care decision that you could have made while you had the capacity to make health care decisions. You may appoint an alternate agent to make health care decisions for you if your first agent is not willing, able and reasonably available to make decisions for you. Unless the persons you name as agent and alternate agent are related to you by blood, neither may own, operate or be employed by any residential long-term care institution where you are receiving care.

If you wish to appoint an agent to make health care decisions for you under these circumstances and conditions, you must fill out the section below. You may cross out any wording you do not want.

A. DESIGNATION OF AGENT: I designate _____ as my agent to make health care decisions for me. If he/she is not living, willing or able, or reasonably available, to make health care decisions for me, then I designate _____ as my agent to make health care decisions for me.

(name of individual you choose as agent)

(address) (city) (state) (zip code)

(home phone) (work phone)

(name of individual you choose as alternate agent)

(address) (city) (state) (zip code)

(home phone) (work phone)

B. AGENT’S AUTHORITY: I grant to my agent full authority to make decisions for me regarding my health care; provided that, in exercising this authority, my agent shall follow my desires as stated in this document or otherwise known to my agent. Accordingly, my agent is authorized as follows:

- 1. To consent to, refuse, or withdraw consent to any and all types of medical care, treatment, surgical procedures, diagnostic procedures, medication, and the use of mechanical or other procedures that affect any bodily function;
- 2. To have access to medical records and information to the same extent that I am entitled to, including the right to disclose the contents to others;
- 3. To authorize my admission to or discharge from any hospital, nursing home, residential care, assisted living or similar facility or service;
- 4. To contract for any health care related service or facility on my behalf, without my agent incurring personal financial liability for such contracts;
- 5. To hire and fire medical, social service, and other support personnel responsible for my care; and

6. To authorize, or refuse to authorize, any medication or procedure intended to relieve pain, even though such use may lead to physical damage, addiction, or hasten the moment of (but not intentionally cause) my death.

C. WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE: My agent's authority becomes effective when my attending physician determines I lack the capacity to make my own health care decisions.

D. AGENT'S OBLIGATION: My agent shall make health care decisions for me in accordance with this power of attorney for health care, any instructions I give in Part I of this form, and my other wishes to the extent known to my agent. To the extent my wishes are unknown, health care decisions by my agent shall conform as closely as possible to what I would have done or intended under the circumstances. If my agent is unable to determine what I would have done or intended under the circumstances, my agent will make health care decisions for me in accordance with what my agent determines to be my best interest. In determining my best interest, my agent shall consider my personal values to the extent known to my agent.

PART III. ANATOMICAL GIFT DECLARATION (Optional)

I hereby make the following anatomical gift(s) to take effect upon my death. The marks in the appropriate squares and words filled into the blanks below indicate my desires:

I give my body; any needed organs or parts;
 the following organs or parts _____

to the physician in attendance at my death; the hospital in which I die;
 the following named physician, hospital, storage bank or other medical institution

for the following purpose(s):
 any purpose authorized by law; transplantation;
 therapy; research;
 medical education.

EFFECT OF COPY: A copy of this form has the same effect as the original.

I understand the purpose and effect of this document.

(date)

(sign your name)

(print your name)

(address)

(city) (state) (zip code)

STATEMENT OF WITNESSES

SIGNED AND DECLARED by the above-named declarant as and for his/her written declaration under 16 Del.C. §§ 2502, 2503, in our presence, who in his/her presence, at his/her

request, and in the presence of each other, have hereunto subscribed our names as witnesses, and state:

- A. The Declarant is mentally competent.
- B. That neither of us is prohibited by §2503 of Title 16 of the Delaware Code from being a witness. Neither of us:
 - 1. Is related to the declarant by blood, marriage or adoption;
 - 2. Is entitled to any portion of the estate of the declarant under any will of the declarant or codicil thereto then existing nor, at the time of the executing of the advance health care directive, is so entitled by operation of law then existing;
 - 3. Has, at the time of the execution of the advance health care directive, a present or inchoate claim against any portion of the estate of the declarant;
 - 4. Has a direct financial responsibility for the declarant's medical care;
 - 5. Has a controlling interest in or is an operator or an employee of a health care institution in which the declarant is a patient or resident; or
 - 6. Is under eighteen years of age.
- C. That if the declarant is a resident of a sanitarium, rest home, nursing home, boarding home or related institution, one of the witnesses, _____, is at the time of the execution of the advance health care directive, a patient advocate or ombudsman designated by the Division of Services for Aging and Adults with Physical Disabilities or the Public Guardian.

Witness

Witness

(print name)

(print name)

(address)

(address)

(city, state, zip code)

(city, state, zip code)

(signature of witness)

(date)

(signature of witness)

(date)

(Optional)

Sworn and subscribed to me this _____ day of _____.

My term expires: _____

(Notary)

GRANDPARENTS AND RELATIVE CAREGIVERS RAISING RELATIVES' CHILDREN WITHOUT LEGAL CUSTODY OR GUARDIANSHIP

A DELAWARE LAW FOR THE CHILD IN YOUR CARE

NOW YOU CAN:

AUTHORIZE MEDICAL TREATMENT

Complete the Caregivers' Medical Authorization Affidavit inside and have it notarized!

Some Caregivers' Medical Authorization facts:

- Parents, custodians, or guardians may sign this affidavit allowing a caregiver **with whom the child is living** to give medical treatment authorization for the child.
- In order to complete the affidavit in the absence of parent(s), custodian, or guardian, a caregiver must provide two proofs of their attempts to locate the party responsible for the child.
- At any time a parent, custodian, or guardian can take back their permission allowing the caregiver to authorize medical treatment.
- The Caregivers' Medical Authorization Affidavit is good for up to one year from the date it was notarized.
- A caregiver must present a completed and notarized Caregivers' Medical Authorization Affidavit when seeking medical treatment for the child.

Eligible individuals must successfully complete and have notarized the Caregivers' Medical Authorization Affidavit in order to approve medical treatment for a relative's child.

You can also acquire the Caregivers' Medical Authorization Affidavit from public health clinics, state service centers, and the Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) via:

- > the internet: www.DSAAPD.com
- > E-mail to DSAAPDinfo@state.de.us
- > the mail by calling DSAAPD in: New Castle at 255-9390, Newark at 453-3820, Milford at 422-1386 or statewide at 1-800-223-9074.



**DELAWARE HEALTH
AND SOCIAL SERVICES**

**DIVISION OF SERVICES FOR AGING AND
ADULTS WITH PHYSICAL DISABILITIES**

RELATIVE CAREGIVERS' MEDICAL AUTHORIZATION AFFIDAVIT

• This Affidavit may be used when a parent, custodian, or guardian wishes to give a relative caregiver their permission to approve medical treatment for his or her child who is living in the caregiver's home.

OR

• This Affidavit is to be completed when a relative caregiver who is raising a child without legal custody or guardianship is seeking authorization for medical care before seeking that care.
The parent(s), custodian, or guardian cannot be located.

In accordance with Delaware Law on Consent for Medical Treatment of Minors (13 Del.C. §707-708 (a)) I swear or affirm that:

1. I, _____ reside at _____ .
(Name of Relative Caregiver) (Address)

2. I am eighteen years of age or older.

3. _____ , _____ resides with me at this address.
(Name of Child) (Date of Birth)

4. I am _____ to the child for whom this Affidavit is being submitted.
(Your relationship to the child)

(A relative caregiver is an adult who, by blood, marriage or adoption, is the child's great grandparent, grandparent, step grandparent, great aunt, aunt, step aunt, great uncle, uncle, step uncle, step parent, brother, sister, step brother, step sister, half brother, half sister, niece, nephew, first cousin or first cousin once removed but who does not have legal custody or legal guardianship of the child.)

5. The name of the child's mother, father, legal custodian, or guardian is: _____

6. **If the parent(s), custodian, or guardian is available** to sign this affidavit indicating their approval for a relative caregiver to authorize medical treatment for their child who is living with that caregiver, this section must be completed and signed.

I, (Print your name) _____ , the (Check the appropriate box)

parent(s) custodian guardian of

(Print child's name) _____ , a minor who is living with this caregiver and is related to me by blood, adoption, or marriage, give permission for (Print caregiver's name) _____ , to stand in my place regarding approval of medical treatment for this child.

Signature of Parent(s), Custodian, or Guardian

Date

7. **If the parent(s), custodian, or guardian cannot be located**, you must complete Section A below as one of the proofs of your efforts to reach the parent(s), custodian, or guardian. In addition, you must also choose one of the Options -- B, C, D, or E. It is required that you complete the described action and write the information your option requests.

Required Section A:

- A. I have sent a certified letter/notice to the parent(s), guardian, or custodian at their last known address. This letter/notice informed the parent(s), custodian, or guardian of this child that I intend to act as a caretaker and take medical responsibility for the child. That letter/notice is attached along with the certified mail receipt reporting the letter was not deliverable because the parent(s), custodian, or guardian of the child was not at this location.

And one of the following options:

- B. I, or a person acting in my behalf, (name) _____ visited the last known address of the parent(s), custodian, or guardian. *Describe what was found at that visit. Include the name of the person spoken to; what that person's relationship with the parent(s), custodian, or guardian is; what the contact person said; and any other related information that clarifies the situation.*

OR

- C. I, or a person acting in my behalf, (name) _____ attempted to determine the location of the parent(s), custodian, or guardian by contacting their place of employment, health care providers, or friends. *Describe the results of your inquiry. Include the name of the employers, health care providers, or friends. Tell what was their response to your request for the location of the parent(s), custodian, or guardian.*

OR

- D. I placed a notice in the *News Journal* and the *Delaware State News* informing the parent(s), custodian, or guardian of (child's name) _____ that I intend to take medical responsibility of the child. Eight days after publication describe what happened. Include the response you received or the lack of response. *Attach a copy of the legal notice, being sure to include the portion of the newspaper with the date the notice was printed.*

OR

E. Other documents or confirmations that show that the parent(s), custodian, or guardian cannot be found.

8. Signature of the relative caregiver (Required for all affidavits)

By signing this Relative Caregivers' Medical Authorization Affidavit, I understand that if I am making false statements I am subject to a minimum civil penalty of \$1,000. I may also be subject to criminal prosecution.

I, (Print your name) _____, do declare, certify and state under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge.

This, the _____ day of _____, 20_____.
(Date) (Month) (Year)

Signature of Relative Caregiver
(To be signed in the Presence of a Notary Public)

9. To be completed by the Notary Public:

On this, the _____ day of _____, 20_____, personally appeared before me, _____, known to me to be the person described in and who executed the foregoing instrument and he/she acknowledged that he/she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

(Printed Name of Notary Public)

NOTARY PUBLIC (Signature) My commission expires _____ (Date)

This Caregivers' Medical Authorization is valid for one year or less. This Authorization begins on

_____ and will expire on _____.
(date notarized) (date)

RELATIVE CAREGIVERS' SCHOOL AUTHORIZATION AFFIDAVIT

This Affidavit is to be completed when a child is registered for school by a relative caregiver who is raising the child without custody or guardianship.

- A "relative" is an adult who, by blood, marriage or adoption, is the child's great grandparent, grandparent, step grandparent, great aunt, aunt, step aunt, great uncle, uncle, step uncle, step parent, brother, sister, step brother, step sister, half brother, half sister, niece, nephew, first cousin or first cousin once removed, but who does not have legal custody or legal guardianship of the child.
- A "relative caregiver" is an adult raising a child who is living with and related to the caregiver through the relationships listed above.
- This Caregivers' School Authorization affidavit is not intended for the school registration of homeless children. Homeless children are to be admitted to school according to Title VII of the McKinney Homeless Education Improvements Act of 1999.

Please contact the District Office in your local school district for assistance with completing this affidavit.

In accordance with Delaware Law on Education (14 Del.C. §202 (a)) I swear or affirm that:

1. I, _____, reside at _____, in the _____ School District.
(Name of Relative Caregiver) (Address) (School District)
2. I am eighteen years of age or older.
3. _____ resides with me at this address as a result of:
(Name of Child) (Date of Birth)

Check the reason(s) that apply: (Parent includes custodian or guardian.)

- A. the parent is dead, the parent is so sick ne/she cannot care for the child, the parent is in jail, or the parent is on military assignment;
- B. the parent fails or is unable to provide adequate financial support or parental care or guidance;
- C. the parent or others in his/her residence have allegedly abused or neglected the child;
- D. the parent has a physical or mental condition which prevents adequate care and supervision of the child;
- E. the student's home is uninhabitable due to loss, damage, or disrepair;
- F. the parents cannot be located;
- G. other circumstances as approved by the school district:

District Explanation: _____

4. By my signature on this Affidavit, I swear or affirm that the student's claim of residency with me as caregiver is **not** for the purpose of: 1) attending a particular school; 2) circumventing or avoiding the Choice program's decisions; 3) participating in athletics at a particular school; 4) taking advantage of special services or programs offered at a particular school or for any other similar purpose.
5. By my signature on this Affidavit, I swear or affirm that the student is **not** currently subject to expulsion from school, or suspended from school for conduct that could lead to expulsion.

6. By signing this Affidavit, I agree to be responsible for:
- A) enrolling the student in school;
 - B) being the legal contact for the school regarding, but not limited to, truancy and discipline;
 - C) making school-based decisions, regarding but not limited to special education; and
 - D) giving medical approval for health care administered by the school.
7. Name of the child's mother, father, legal custodian, or guardian: _____
8. If this child is under the care of a custodian or guardian, attach a copy of the portion of the custody order indicating to whom custody or guardianship is granted, if available.
9. **If the parent(s), custodian, or guardian is available** to sign this affidavit indicating their approval for a relative caregiver to take educational responsibility for their child who is living with that caregiver, this section must be completed and signed.

I, (Print your name) _____, the (Check the appropriate box)
 parent(s) custodian guardian of
 (Print child's name) _____, a minor who is living with this caregiver
 and is related to me by blood, adoption, or marriage, give permission for (Print caregiver's name)
 _____, to stand in my place regarding educational responsibility
 for this child.

Signature of Parent(s), Custodian, or Guardian

Date

10. **Because the parent(s), custodian, or guardian cannot be located**, you must complete Section A below as one of the proofs of your efforts to reach the parent(s), custodian, or guardian. In addition, you must also choose one of the Options -- B, C, D, or E. It is required that you complete the described action and write the information your option requests.

Required Section A:

- A. I have sent a certified letter/notice to the parents, guardian, or custodian at their last known address. This letter/notice informed the parent(s), custodian, or guardian for this child that I intend to act as a caretaker and take educational responsibility for the child. That letter/notice is attached along with the certified mail receipt reporting the letter was not deliverable because the parent(s), custodian, or guardian of the child was not at this location.

And one of the following options:

B. I or a person acting in my behalf, (name) _____ visited the last known address of the parent(s), custodian, or guardian. *Describe what was found at that visit. Include the name of the person spoken to; what that person's relationship with the parent(s), custodian, or guardian is; what the contact person said; and any other related information that clarifies the situation.*

OR

C. I or a person acting in my behalf, (name) _____ attempted to determine the location of the parent(s), custodian, or guardian by contacting their place(s) of employment, health care provider(s), or friends. *Describe the results of your inquiry. Include the name of the employers, health care providers, or friends. Tell what was their response to the request for the location of the parent(s), custodian, or guardian.*

OR

D. I placed a notice in the *News Journal* and the *Delaware State News* informing the parent(s), custodian, or guardian of (child's name) _____ that I intend to take educational responsibility of the child. *Eight days after publication describe what happened. Include the response you received or the lack of response. Attach a copy of the legal notice, being sure to include the portion of the newspaper with the date the notice was printed.*

OR

E. Other documents or confirmations that show the parent(s), custodian, or guardian cannot be found.

II. I am _____ to the child for whom this Affidavit is being submitted.
(Relationship - see instructions for the acceptable list of relatives)

12. I can prove my relationship to this child and also that I am the caregiver to this child by providing one of the proofs listed below from each column.

- **There must be two different forms of documentation, one from each column.**
- **One must show proof of relationship and the other proof of caregiving.**

These documents, or other similar documents as approved by the school district, must be presented for registration. **Check** which document you will use from each column.

✓ **PROOF OF RELATIONSHIP**

✓ **PROOF OF CAREGIVING**

Birth certificate of caregiver, the adult child, and birth certificate of the child.	
Medical records where a caregiver is required to give approval, such as shots. Such records must show the relationship between the caregiver and the child.	Medical records where a caregiver's authorization to give approval for services such as shots is acceptable.
A Will which lists the child and the relationship between the caregiver and child.	
Insurance for the caregiver or child which includes the relationship between the caregiver and child.	
A letter from a social worker, lawyer, religious leader, previous school district, licensed medical, mental health, or behavioral professional that verifies the relationship of the child to the caregiver.	A letter from a social worker, lawyer, religious leader, licensed medical, mental health, or behavioral professional, or neighbor confirming the child is being cared for by the caregiver.
The National School Lunch Program application.	
Child is listed as occupant in an apartment or other housing and his/her relationship to the caregiver is included.	Child is listed as occupant in an apartment or other housing and his/her relationship to the caregiver is included.
Caregiver received Child-only Temporary Aid for Needy Families (TANF) grant for this child.	Caregiver receives Child-only Temporary Aid for Needy Families (TANF) grant for this child.
Child claimed on Federal Income Tax return.	Child claimed on Federal Income Tax return.
Caregiver receives Earned Income Tax Credit for the child.	Caregiver receives Earned Income Tax Credit for the child.
	Child's Social Security survivor death benefits are received by the caregiver for the child.
Hospital, clinic, Public Health, or Medicaid, or food stamp records showing the relationship between the caregiver and the child.	Hospital, clinic, Public Health, or Medicaid records where a caregiver's authorization to give approval for services such as shots is acceptable.
Division of Services for Children, Youth and their Families' records specifying the relationship between the caregiver and child.	Division of Services for Children, Youth and their Families' records showing that the caregiver is the contact for this child.
Military or veterans records which specify relationship	
Or other documents as approved by the school district.	Or other documents as approved by the school district.

13. To be completed by the relative caregiver:

By signing this Relative Caregivers' School Authorization Affidavit, I understand that if I am making false statements I am subject to a minimum civil penalty of \$1,000 and maximum of the average annual per student education cost. I may be required to reimburse the school district tuition costs. I may also be subject to criminal prosecution.

I, (Print your name) _____, do declare, certify and state under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge.

This, the _____ day of _____, 20____.
(Date) (Month) (Year)

Signature of Relative Caregiver
(To be signed in the Presence of a Notary Public)

14. To be completed by the Notary Public:

On this, the _____ day of _____, 20____, personally appeared before me, _____, known to me to be the person described in and who executed the foregoing instrument and he/she acknowledged that he/she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

(Printed Name of Notary Public)

NOTARY PUBLIC (Signature)

My commission expires _____

(Date)

SAMPLES

FOR DISTRICT USE ONLY:

Approved on: _____ (date) by _____ (position)

This Affidavit is in effect on _____ (date) . Expiration: _____ (date).

If disapproved, reason: _____

District Authorized Signature _____

Date: _____

Appeal to State Board: Yes _____ No _____

Result: _____



The Family Court of the State of Delaware

In and For New Castle Kent Sussex County

DEPENDENCY/NEGLECT PETITION FOR CUSTODY

Petitioner

SS#	DOB
Attorney	
Relationship to Child(ren)	

Petitioner

SS#	DOB
Attorney	
Relationship to Child(ren)	

File Number(s)
CPI Number(s)
DFS Referral Non-Relative Placement

Respondent

SS#	DOB
Attorney	

Respondent

SS#	DOB
Attorney	

IN THE INTEREST OF the following child(ren):

Name	DOB	Sex
Name	DOB	Sex

Name	DOB	Sex
Name	DOB	Sex

Petitioner alleges the following facts:

The Father is:
Address:

	DOB:
	SSN:

The Mother is:
Address::

	DOB:
	SSN:

The above-named child(ren) reside with:
Address:

	Name:
	Relationship:

Check boxes below as appropriate:

The child(ren) are:

dependent

neglected

as defined by 10 Del.C. §901 [8] and [11] in that the children's physical, mental or emotional health and well being are threatened or impaired because of inadequate care and protection by the child's custodian who .

is unable to provide adequate care for the child.

has the ability and financial means to provide for the care but does not or will not provide adequate care,

or a child who has been abused or neglected as defined by 16 Del.C. § 902.

In support of the allegations in the preceding paragraph, the petitioner alleges the following facts:

WHEREFORE, Petitioner prays that the aforementioned child(ren) be declared dependent/neglected and that custody be awarded to _____ .

SWORN TO AND SUBSCRIBED

before me this date,

Notary Public

Petitioner/Attorney

Address (if not stated above)

The Family Court of the State of Delaware

In and For New Castle Kent Sussex County

PETITION FOR SUPPORT

DCSE # _____

Petitioner

Respondent

Address	
vs	
Attorney	Employer Name & Address
Hm Ph#	PH#
Wk Ph#	
Social Security Number	DOB
Driver License #	State

Address	
vs	
Attorney	Employer Name & Address
Hm Ph#	PH#
Wk Ph#	
Social Security Number	DOB
Driver License #	State

File Number(s)
Petition Number(s)

Other State # _____

IN THE INTEREST OF: (Include last name.)

Name	DOB	Name	DOB	Name	DOB
Social Security Number		Social Security Number		Social Security Number	
Name	DOB	Name	DOB	Name	DOB
Social Security Number		Social Security Number		Social Security Number	

- RESPONDENT owes legal duty of support to PETITIONER.
1. PETITIONER requires the sum of \$ _____ per _____ for spousal support.
- RESPONDENT owes legal duty of support to Children.
1. PETITIONER requests that the Delaware Child Support Formula be used to determine the appropriate obligation.
 - PETITIONER requests that the RESPONDENT be ordered to provide Medical Support in the form of health insurance for the child(ren); to provide the PETITIONER with current insurance documents; and to provide unreimbursed health care expenses as required by the Delaware Child Support Formula.
 - PETITIONER requests that the RESPONDENT be ordered to pay support retroactive to _____ (up to a maximum of two years prior to the date of filing), with credit given for support provided, if any.
 2. PETITIONER alleges the following:
 - RESPONDENT has refused or failed to comply with said duty without just cause.
 - RESPONDENT has been providing some support.

WHEREFORE, PETITIONER prays that a Summons be issued to RESPONDENT.

_____ Date

_____ Petitioner/Attorney



The Family Court of the State of Delaware

For New Castle Kent Sussex County

PETITION FOR ORDER OF PROTECTION FROM ABUSE

Petitioner 's (Applicant's) Name

Respondent's Name & Address

Attorney:

Attorney:

File No(s)
CPI No(s)

The Petitioner respectfully requests that this Court issue an Order of Protection from Abuse against the Respondent, as provided for in 10 Del. C., § 1041 et seq. In support of this request, the Petitioner states that:

1. The Respondent's relationship to the Petitioner is:

- family: _____ marriage child in common custodian of child
- former spouses living together Child/Adult Protective Agency

2. The Respondent has committed the following act(s) of abuse (*Please describe the acts in as much detail as possible, including dates if known. Continue on back if additional space is needed*):

3. I am am not currently receiving AFDC (Aid to Families with Dependent Children) support.

4. I ask that the address of my place of residence, school and/or employment
 the address of my child(ren)'s school or child care

not be disclosed because the disclosure of this information would place me and/or my child(ren) in danger.

WHEREFORE, Petitioner asks this Court to:

- Prohibit the Respondent from committing any act of abuse against the Petitioner (or his or her minor children)
- Order the Respondent to stay away from:
 - Petitioner
 - Petitioner's home
 - Petitioner's workplace
 - Other: _____

PETITIONER: _____

- Prohibit the Respondent from contacting or attempting to contact the Petitioner in any way, including, but not limited to, by phone, by the mail or by any other means.
- Order that the Petitioner be given the exclusive use and possession of the parties' residence at _____
- Order the Respondent to pay \$_____ to the Petitioner as compensation for losses suffered as a direct result of the domestic violence.
- Award custody and/or residency of the parties minor child(ren) to the Petitioner (*please specify names and ages of the child(ren)*): _____
- Order the Respondent to pay support for child(ren).
- Order the Respondent to pay \$_____ support for Petitioner.
- Order the Respondent to pay or reimburse fees and costs.
- Award the Petitioner temporary possession of the following personal property (*including bank accounts, check books, credit cards, automobiles, etc.*): _____
- Other: _____

The Petitioner also asks the Court for any other such relief that the Court deems appropriate and just.

Date

Petitioner/Petitioner's Attorney

VERIFICATION

STATE OF DELAWARE)
) ss.:
COUNTY OF _____)

_____, being duly sworn, says:

I am the Petitioner in this action. I have read the above Petition and know to the best of my knowledge that the facts contained therein are true.

Subscribed and sworn before me on this date, _____

Petitioner

Date

Notary Public

The Family Court of the State of Delaware

In and For New Castle Kent Sussex County

PETITION FOR VISITATION

Petitioner		
Name		
Address		
City	State	Zip
SS#	DOB	
Attorney		

Respondent		
Name		
Address		
City	State	Zip
SS#	DOB	
Attorney		

File No.
CPI No.

IN THE INTEREST OF the following child(ren):

_____ Name	_____ DOB	_____ Name	_____ DOB	_____ Name	_____ DOB
_____ Name	_____ DOB	_____ Name	_____ DOB	_____ Name	_____ DOB
_____ Name	_____ DOB	_____ Name	_____ DOB	_____ Name	_____ DOB

The said child(ren) live with (Name): _____
Relationship: _____ Address: _____

Petitioner alleges the following circumstances (please list in consecutively numbered paragraphs):

Petitioner requests that Visitation be as follows:

WHEREFORE, Petitioner prays that a Summons issue to Respondent and that the Court grant the relief prayed for or such other relief as may be just.

SWORN TO AND SUBSCRIBED
before me this date,

Clerk of Court/Notary Public

Petitioner/Attorney

Address (if not stated above)

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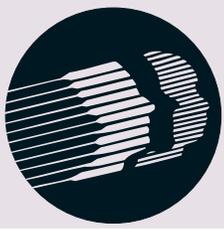
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**DELAWARE HEALTH
AND SOCIAL SERVICES**

DIVISION OF SERVICES FOR AGING AND
ADULTS WITH PHYSICAL DISABILITIES

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Delaware's Legal Handbook for
Grandparents & Other Relatives Raising Children

A Legal Resource for People Caring for the Children of a Relative

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