



# My Child is Off to College! How Can I Maintain Decision-Making Access?

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As your new college student heads off to school soon, have you considered that you may not be able to legally make decisions on behalf of your child with respect to financial or medical matters? Once your child reaches age 18, he or she is deemed to be an adult by law, and you can no longer make these decisions for them. Your rights as a parent diminish, including the right to information regarding their finances, medical information, or even their school records. However, in the event of an emergency, you may still want to be able to assist them. Therefore, you should consider taking a few simple steps so that, in the event of an emergency, you can make important health care and financial decisions, gain access to their medical information and financial accounts, and be able to obtain their educational records.

## Medical Information

Your child must execute certain legal documents naming you as his or her health care agent or medical power of attorney and permitting you to access his or her medical information:

- **Health Care Proxy:** Your child must name you as a health care proxy who can make health care decisions if he or she is unable to communicate

this himself or herself. This can be done with a durable power of attorney for healthcare or medical power of attorney. Make sure you discuss with your child his or her own wishes regarding medical treatment.

- **HIPAA Authorization Form:** Your child must also sign a HIPAA Authorization Form. The Health Insurance Portability and Accountability Act of 1996 (generally known as “HIPAA”) protects the privacy of an individual’s medical information. This law ensures that an individual’s health information is not disclosed to anyone except when permission is granted by that individual. Your child must designate you as their “personal representative” on their HIPAA authorization form, legally naming you as someone who is authorized to have access to their health information. Your child can sign a full release or set limits on what information may be shared with you. Make sure you keep this accessible in case you need to show it to a doctor, hospital, or other medical provider. Without this designation, doctors and medical staff may not be able to disclose any information regarding your child’s health.
- Your child’s college or university may also have policies in place preventing it from sharing medical information without the student’s consent. Check with the health services department of the school. It may have its own form that will serve as written permission authorizing those providing health care services to your child to share medical information with you as your child’s health care agent.

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## Financial Accounts

Now that your child is age 18, you may no longer have the ability to act on behalf of your adult child with respect to financial matters.

- **Durable Power of Attorney:** Your child needs to execute a durable power of attorney naming you as your child's agent with respect to the child's assets and finances. If your child is incapacitated, out of the country abroad, or for some other reason they need you to assist with their financial affairs, you'll need this document in place. This will allow you to pay bills, make deposits to a bank account, access a bank account, sign tax returns, or perform other transactions.

Your child can restrict the types of transactions that you can perform or provide full access. The durable power of attorney can also have a timeline including a start and stop date.

## Educational Records

The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the educational records of a child who has turned 18 or is enrolled at a postsecondary institution from access by his or her parents. This law applies to students who attend any school that receives funding from the U.S. Department of Education.

- **FERPA waiver:** Students, age 18 or older, must provide written consent before educational records such as grades, transcripts, or disciplinary records can be shared with parents.
- Most public and private colleges and universities will notify parents of this requirement. In this case, you must have your child sign a FERPA waiver. You can contact the school to request a FERPA waiver form.
- If the child is a "dependent student" as defined in Section 152 of the Internal Revenue Code, schools may, but are not required to, disclose any and all education records to parents without the consent of the eligible student.

You don't necessarily need to have an attorney involved with this. But, if you have one, you may want them to review your forms to make sure they accomplish what you desire.

So, in the hustle and bustle of getting your new college student off to school, don't forget to discuss this with your child and consider putting these documents in place to help provide some peace of mind for you and your college student.

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For more information, please contact your advisor.



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