
FOR YOUR INFORMATION

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News For School Clients

Rights and Responsibilities of 18-year-old Students

Under Wisconsin law, once an individual attains the age of 18 years, the individual ceases being a minor and becomes an adult. An 18-year-old's new rights and responsibilities may directly impact the way in which school districts deal with students because school districts are obligated to treat adult students differently than minor students. This article discusses some of the rights that transfer to the adult student.

An adult is defined as a person who has attained the age of 18 years, except that, for purposes of investigating or prosecuting a person who has alleged to have violated any state or federal criminal law or any civil law or municipal ordinance, "adult" means a person who has attained the age of 17 years. A minor is defined as a person who has not attained the age of 18 years, with the previously noted exception. Before turning 18, unless a substitute guardian has been appointed by the court, a minor's parents are his or her natural guardians with the rights and responsibilities of making decisions about the care and custody of their child, including educational decision-making.

Both state and federal law provide that when a student turns 18 years old, the rights related to the student's records, previously held by a parent, transfer to the child. All student records are confidential and may not be disclosed without the adult student's written consent, except under certain exceptions. Any student must be shown and provided with a copy of his

or her progress records if requested. However, only an adult student is entitled to examine and receive a copy of his or her behavioral records.

The parent or guardian of an adult student retains access to the adult student's records if the student is classified as the parent's or guardian's dependent for tax purposes. No written consent is necessary for this continued access. However, an adult student may terminate parent or guardian access to his or her student records by notifying the school in writing that the student's information may not be shared with the parents or guardians without the student's permission.

An adult student has the authority to disclose some or all portions of his or her student records to other persons. In the case of students from divorced households, once the student turns 18, the student may provide consent for a parent who was previously denied access to the student's records to now have access to those records.

Once a student turns 18, the student may choose where to reside. An adult student of divorced parents may choose to live with a different parent. An adult student may also move out of his or her parent's household entirely, either within or outside the student's school district. Generally, state law provides that a student is entitled to attend school in any district in which he or she resides, regardless of his or her parents' residence.

Alternatively, an adult student may quit school. Under Wisconsin law, school attendance is only required until a child reaches 18 years of age. After a student attains the age of 18, the student may choose to leave school, or pursue an alternative high school equivalency diploma program, or enlist in the armed forces without parental consent. However, adult students who are enrolled in a school district are expected to comply with all the school rules and regulations, including the attendance policy, completing coursework, and disciplinary rules.

The transfer of rights from the parent or guardian to the adult student also occurs for students with disabilities. Before a child turns 18, his or her parent (or guardian) has a right to consent to an evaluation and special education placement, or to file a complaint on behalf of the student under the Individuals with Disabilities Education Act (IDEA). Those rights automatically transfer to the student when the student turns 18, and the parent is no longer authorized to make the decisions about the student's participation in IDEA-related activities. The school district is required to notify both the parent and the adult student of the transfer of rights to the adult student, but must continue to provide notices to both the parents and the adult student. The transfer of these rights and notice requirements are not applicable to an adult student who has been determined incompetent by the court and placed under permanent guardianship.

A parent or guardian may obtain a permanent guardianship for a person with a disability by petitioning the court. The guardianship petition

may be filed as soon as the child is 17 years and 9 months, so that it is in place by the time the student turns 18 years old. In order to grant this type of guardianship, the court must determine the child to be incompetent to the extent that the child is unable to effectively receive and evaluate information or to communicate decisions to such an extent that the child is unable to meet the essential requirements for his or her physical health or safety.

Once guardianship has been granted, the court issues "Letters of Guardianship of the Person" to the guardian that authorizes the guardian to make decisions regarding the care, custody, and education of the person under guardianship.

In addition to some new-found rights, an 18-year-old will obtain new responsibilities. For example, any person who has attained the age of 18 may be called upon to serve on a jury. There is no exemption for excluding high school students from jury duty, so it is possible that an 18-year-old, who is still enrolled in high school, could be summoned to court for jury service.

School officials may want to remind their students that every adult male citizen or male alien who resides in the United States must register with the Selective Service within 30 days of his 18th birthday. Adult males who fail to register for the Selective Service may be charged with a federal crime punishable by up to 5 years imprisonment and/or a fine of up to \$250,000 and lose out on opportunities for federal job training assistance programs and college financial aid.

If you have any questions regarding this topic, please call any of the following members of the Lathrop & Clark LLP School, Municipal, Labor and Employment Law Team.

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