



# Holding Educational Rights

Content excerpts from San Francisco CASA, [www.sfcasa.org](http://www.sfcasa.org)

When parents or caretakers are unable to take on the responsibility of managing the educational rights of a youth, those rights can be transferred to an Educational Representative. The representative serves as the point-person for all decisions around the youth's academic and developmental needs. An Educational Representative could be a foster parent, relative, family friend, or in many cases, a CASA.

## **Limiting Educational Rights of Parent(s)**

If there ever is a situation where the parents are unavailable or incapable of exercising educational rights, the juvenile court must take action. This can include limiting educational rights of the parents (in whole, or in part). If the court does limit the educational rights, then it must appoint a responsible adult (using a [IV-535](#) form)

As a CASA, you may have the opportunity to be appointed as your youth's Educational Representative. Check with your supervisor and youth's attorney to best understand the status and need.

## **Why appoint a CASA?**

CASA volunteers are often considered as educational rights holders. The law states that when either the juvenile court or the school district appoints an educational rights holder, both must consider appointing either the caregiver or CASA (if he or she was willing to serve). The court may consider others as well, including a responsible adult relative, nonrelative extended family member, family friend, or other mentor. Cal. Rule of Court 5.650(c)(1) and Gov. Code 7579.5(b).

If the court cannot locate a responsible adult and the youth appears to need special education services, the court will send it to the school district for appointment of an educational surrogate. Welfare & Inst. Code 361.

## **The Process**

The court must consider whether the parent's educational rights should be limited at virtually every hearing in dependency. However, the right of a parent to make



educational decisions is a constitutional right, and may only be limited by a court when it follows certain procedures and makes certain findings.

Therefore, if you think that the child or youth needs an appointed educational rights holder, you can make that recommendation to the court, file a 388 (a motion to change a previous order based on the best interest of the child), or make the request another way. Once any parents whose whereabouts are known have notice, the court can proceed.

The court will hear evidence, consider the circumstances and needs of the child, and rule in that child's best interest.

- If the court decides to limit educational rights the court will appoint a responsible adult if it can identify one (including allowing a foster parent if qualified by law) *or*
- If the court *cannot* identify a responsible adult, it is to send a request to appoint one to the district – if and only if the youth *is* or *may* be eligible for special education services.
- If the youth has no indication of needing special education, and the court cannot find a responsible adult, then the court itself holds educational rights. California Rule of Court 5.650(b). [Relevant Law: California Rule of Court 5.650(b); Welfare & Inst. Code §§ 319, 361, 366, 366.27, 726; 20 U.S.C. § 1415; 34 C.F.R. § 300.519]

If in addition to your CASA appointment, you are additionally appointed as your youth's Educational Representative, you will be called to:

- Ensure that your child receives an appropriate education.
- Meet with your child, review their records, and maintain contact with other adults involved in their education as often as is necessary to keep everyone up to date on the youth's educational success.
- Familiarize yourself with relevant laws supporting a youth's academic rights.
- Consider school placement stability and advocate that a youth remain in their school of origin when beneficial.
- Make sure your child has access to appropriate enrichment activities and academic resources.
- Participate in any school disciplinary meetings and procedures.



- Advocate and provide consent for your youth around any special educational needs. This includes assessment, instructional planning (e.g. creation of an IEP), program placement, and monitoring to make sure these needs continue to be met.
- Before every hearing, provide information to inform the court and team of any educational status updates, or if your ability to hold these rights changes and provide written recommendations to the court.

## **Reference:**

San Francisco CASA website: [www.sfcasa.org](http://www.sfcasa.org)