

**158.144 Adult caregiver with whom minor student resides may, by affidavit, establish authority to make school-related decisions for minor student -- Conditions -- Caretaker's decision may be superseded -- Obligations and liability of person relying on affidavit of authority -- Revocation of affidavit -- Statute subordinate to federal law -- Penalty.**

- (1) As used in this section, "caregiver" has the same meaning as provided in KRS 405.024(1).
- (2)
  - (a) A caregiver may be authorized to make school-related decisions for a minor residing in the caregiver's home, including but not limited to decisions concerning enrollment, attendance, extracurricular activities, discipline, special education and related services, and other school-related activities, if the caregiver presents to the school a duly executed affidavit as described in KRS 405.024(2).
  - (b) A school shall honor a caregiver's authority to make school-related decisions for a minor residing in the caregiver's home if the caregiver presents the school with a duly executed affidavit as described in KRS 405.024(2). The affidavit shall be valid in the school district in which the caregiver resides, but a school official charged with the responsibility of enrolling a minor shall not honor the affidavit if the official has reasonable grounds to believe that the affidavit is presented solely for the purpose of enrolling the minor in a school for the purpose of:
    1. Access to athletics programs; or
    2. Circumventing the school assignment, attendance, or boundaries policies of the school district to gain access to curricula, services, or programs unique to a particular school and not offered at other schools the minor would be eligible to attend.
- (3) A school-related decision made by a caregiver under the affidavit described in KRS 405.024(2) shall be superseded by a decision of a parent, de facto custodian as defined in KRS 403.270, guardian, or legal custodian of the minor. A school official shall refuse to honor a caregiver's decision if he or she has actual knowledge that a parent, de facto custodian as defined in KRS 403.270, guardian, or legal custodian has made a school-related decision superseding the decision of a caregiver.
- (4) A person who relies in good faith on a duly executed affidavit as described in KRS 405.024(2) shall be under no obligation to undertake further investigation into the circumstances forming the basis of the caregiver's authority to make school-related decisions for the minor to whom the affidavit applies.
- (5) A person who relies in good faith on a duly executed affidavit as described in KRS 405.024(2) in honoring a school-related decision of a caregiver shall not be subject to criminal or civil liability because of that reliance.
- (6) An affidavit described in KRS 405.024(2) may be revoked by the minor's parent, de facto custodian, guardian, legal custodian, or caregiver, and shall be revoked if the minor to whom it applies ceases to reside with the caregiver. If an affidavit is revoked, the caregiver shall give written notice of revocation to any school to which the affidavit was presented for the purposes of enrolling the minor and establishing the caregiver's authority to make school-related

decisions for the minor.

- (7) The provisions of this section shall not supersede the provisions of:
  - (a) The Individuals with Disabilities Education Act, 20 U.S.C. secs. 1400 et seq., and its accompanying regulations at 34 C.F.R. pts. 300 et seq.;
  - (b) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. secs. 705(20) and 794 to 794b, and its accompanying regulations at 34 C.F.R. pts. 104 et seq.; and
  - (c) The Family Educational and Privacy Rights Act, 20 U.S.C. sec. 1232g, and its accompanying regulations at 34 C.F.R. pts. 99 et seq.
- (8) A person who knowingly makes a false statement in an affidavit described in KRS 405.024(2) shall be guilty of a Class A misdemeanor as required under KRS 405.024(11).

**Effective:** July 15, 2014

**History:** Created 2014 Ky. Acts ch. 69, sec. 3, effective July 15, 2014.