

FAQ: Using the California Caregiver Affidavit as a Non-Relative or Relative “Sponsor” of an Unaccompanied Immigrant Child

Note: California law does not require that caregivers are documented (have legal immigration status) in order to use a Caregiver Affidavit. Additionally, sponsors of unaccompanied immigrant children may use the Caregiver Affidavit whether or not they are related to the child.

1. What is a Caregiver Authorization Affidavit?

A Caregiver Authorization Affidavit (“Caregiver Affidavit”) is a form that can be used by a caregiver who is not the parent or legal guardian of the child in their home. The Caregiver Affidavit lets people such as school officials and doctors know that the caregiver is the primary adult caring for the child and gives the caregiver the legal right to do certain things on behalf of the child. The caregiver completes the form and signs it. California law does not require the child’s parent or legal guardian to sign the Caregiver Affidavit.¹

The purpose of the Caregiver Affidavit is to ensure that minors living with non-parent caregivers have access to public education and essential medical care.

A sample Caregiver Affidavit form can be found [here](#).

2. Why was the Caregiver Affidavit created?

In the 1980’s, there was a 40% increase in the number of children living with a caregiver who was not their parent. California lawmakers realized that when these caregivers lacked legal custody, they sometimes faced barriers obtaining health care for the children and enrolling them in school. For this reason, in 1994, California passed a law creating a special document called the “Caregiver Authorization Affidavit.”²

¹ Cal. Fam. Code § 6550.

² See California Bill Analysis, SB 592, Sen. Report, May 20, 1994.

3. Who is a “caregiver”?

Many children live with adult “caregivers.” “Caregivers” are adults (18 years old or older) who are housing, feeding, and caring for children but who do not have formal legal custody of the children they are caring for. This may be because the family does not have the resources to obtain “legal guardianship” in court or because the caregivers and family consider this a temporary situation while a parent gets back on their feet or is away for an extended period. Sometimes, these caregivers are grandparents or relatives. Sometimes, they are neighbors, teachers, or the parents of the child’s friend. And sometimes they are the sponsors for immigrant children released from federal custody.

4. What type of caregiver can use the Caregiver Authorization Affidavit?

The Caregiver Affidavit can be used by relative caregivers and non-relative caregivers. However, it gives different authority to “qualified relative” caregivers than it does to “non-relative” caregivers.

- **What does the Caregiver Affidavit allow “qualified relative” caregivers to do?**
 - If the caregiver is a “qualified relative” to the child, the caregiver can use the Caregiver Affidavit to enroll the child in school and to consent to medical and dental treatment for the child.³ These caregivers have the same rights to authorize medical and dental care for the child that are given to guardians under Probate Code § 2353. This may include mental health treatment, subject to limitations of Probate Code § 2356.
 - See below for the definition of a “qualified relative.”
- **What does the Caregiver Affidavit allow non-relative caregivers to do?**
 - If the caregiver does not meet the definition of “qualified relative,” the Caregiver Affidavit allows the caregiver to enroll the child in school and consent to “school-related medical care.”
 - See Question 7 for the definition of “school related medical care.”

³ Cal. Fam. Code § 6550.

5. Who is a “qualified relative” to the child?

A caregiver is a qualified relative if they are the child's:

- Parent or Stepparent
- Brother, Sister, Stepbrother, Stepsister, Half-brother, or Half-sister
- Grandparent or Great-Grandparent
- Aunt, Uncle, Great-Aunt, Great-Uncle, Grand-Aunt or Grand-Uncle
- Niece or nephew
- First cousin
- Spouse

A caregiver is also a qualified relative if they are the spouse (husband or wife) or any of the relatives listed above. A caregiver is a qualified relative even if they are now divorced or their spouse has died.⁴

6. Can someone still use the Caregiver Affidavit if they are not a “qualified relative”?

Yes. As long as the caregiver is 18 years or older, caring for a child under 18 years old, and is not the parent or legal guardian of that child, they may use the Caregiver Affidavit to enroll the child in school and give consent for school-related medical care. There is no requirement that the caregiver be a relative.

7. What is “school-related medical care”?

“School-related medical care” is defined as “medical care that is required by state or local governmental authority as a condition for school enrollment, including immunizations, physical examinations, and medical examinations conducted in schools for pupils.”⁵

Caregivers may wish to contact a lawyer about what other kinds of medical care this definition might include.

⁴ Cal. Fam. Code § 6550 (h)(2).

⁵ Cal. Fam. Code § 6550(h)(3).

8. Can a “sponsor” of an unaccompanied immigrant child use the Caregiver Affidavit?

Yes. All of the same requirements apply to a sponsor of an unaccompanied child released from federal custody – a “qualified relative” can use the form to enroll a child in school and consent to general medical care and a non-relative caregiver can use the form to enroll a child in school and consent to school-related medical care.

9. Who is a “sponsor” of an unaccompanied immigrant child?

Children under the age of 18 who arrive in the United States without legal status and who are not with a parent or legal guardian when they arrive are designated as “unaccompanied” children under federal law.⁶ Unaccompanied children are transferred to the custody of the Office of Refugee Resettlement (“ORR”).

After a child is placed at an ORR facility, the child’s case manager works to identify a sponsor to whom the child can be released.⁷ A sponsor is an individual – usually a parent or other relative – to whom ORR releases the unaccompanied child out of federal custody.⁸ ORR is required to make “prompt and continuous efforts” toward family reunification and release children “without unnecessary delay” to their sponsors.⁹

Sponsors fill out an application, submit identification documentation, interview with the child’s case manager, and may be required to undergo background checks, fingerprint checks, and a home study before the child is released to their care, depending on certain criteria.¹⁰

10. Can a person who is undocumented use the Caregiver Affidavit?

Yes. California law does not require the caregiver to be documented (have immigration status) to use the Caregiver Affidavit.

⁶ See William Wilberforce Trafficking Victims Protection Reauthorization Act, 6 U.S.C. § 279(g)(2) (2011).

⁷ See Office of Refugee Resettlement, *Sponsors and placement: Release of unaccompanied alien children to sponsors in the U.S.*, <https://www.acf.hhs.gov/orr/about/ucs/sponsors>.

⁸ See Office of Refugee Resettlement, *ORR Unaccompanied Children Program Policy Guide: Guide to Terms*, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-guide-terms>.

⁹ See *Flores v. Reno*, No. CV 85-4544-RJK (C.D. Cal. Jan. 17, 1997) (*Flores Settlement*).

¹⁰ See Office of Refugee Resettlement, *ORR Unaccompanied Children Program Policy Guide*, Section 2, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2#2.1>.

11. How do caregivers fill out the Caregiver Affidavit?

- **Non-relative caregivers:**

If a caregiver is using the Caregiver Affidavit only for school enrollment or school-related medical decisions (is not a “qualified relative”), they only need to answer questions 1-4 and sign and date the form. They do not need to answer questions 5-8.

- **“Qualified relative” caregivers:**

If a caregiver is a “qualified relative” and will also use the Caregiver Affidavit to consent to general medical care, they need to answer questions 1-8 and sign and date the form.

- The form does not require the signature of a parent, but it does require that the caregiver swears under written oath that they have attempted to contact the child’s parent to get consent for non-school related medical care. If they do not know where the child’s parent is or how to get in contact with them, that is okay.

12. What kind of documentation is required to use the Caregiver Affidavit?

If the caregiver wants to use the Caregiver Affidavit as a non-relative caregiver, then there is no documentation required.

However, if the caregiver wants to use the Caregiver Affidavit as a relative caregiver, then the caregiver is required to list either their California driver’s license or California identification number on the form. Under California law, a person that is undocumented (without legal immigration status) may still obtain a California driver’s license or identification card.¹¹ If the caregiver does not have a California driver’s license or identification number, they may list either their Medi-Cal number or social security number instead.¹²

School districts and medical providers may not require additional documentation from caregivers wishing to use the Caregiver Affidavit. For example, a school district may not require a caregiver to produce documentation of the caregiver’s relationship

¹¹ Cal. Veh. Code § 12801.9.

¹² Cal. Fam. Code § 6552.

to the child, or a signed statement from the child's parent, in order for that caregiver to use the Caregiver Affidavit to enroll the child in school.

13. Does the Caregiver Affidavit need to be notarized?

No. California law does not require a Caregiver Affidavit to be notarized. The intent of the law was to decrease barriers that non-parent caregivers face in accessing health care and education for minors in their care.

14. What should caregivers do with the Caregiver Affidavit once it has been filled out?

First, caregivers should make several copies of the Caregiver Affidavit. Caregivers should keep one copy at home in a safe place, and one copy with them at all times.

Then, caregivers should give a copy to the following people:

- For school enrollment, caregivers should give a copy to the child's principal, the child's teacher, and the school district's office.
- For health care, caregivers should give a copy to the child's doctor, as well as any hospital or medical care facility where the child will receive care.

15. Does the Caregiver Affidavit ever expire?

No. As long as the child continues to live with the caregiver, the Caregiver Affidavit does not expire. However, if the child moves out, then the caregiver must notify everyone to whom the Caregiver Affidavit was given. The Caregiver Affidavit is invalid after the school, health care provider, or health care service plan receives notice that the child is no longer living with the caregiver.¹³

It is recommended that caregivers keep a list of everyone who has been given a copy of the Caregiver Affidavit.¹⁴

¹³ Cal. Fam. Code §6550(f).

¹⁴ Cal. Fam. Code § 6550(f).

16. What if the caregiver moves?

If the caregiver moves within the state of California, they will need to complete a new Caregiver Affidavit with their new address and send it to the child's school, health care provider, or health care service plan, as needed.

If the caregiver moves outside the state of California, the Caregiver Affidavit is no longer valid. The Caregiver Affidavit is only valid in the state of California.

17. How can a school district or health care provider know if a Caregiver Affidavit is legitimate?

California law clearly states that “[a] person who relies on the affidavit has no obligation to make any further inquiry or investigation.”¹⁵ Therefore, if a school district or health care provider relies on a Caregiver Affidavit, they are not required to check that the information written on the Caregiver Affidavit is correct.

18. Can a health care provider be held liable if the Caregiver Affidavit is not legitimate?

No, not if the health care provider has relied on the Caregiver Affidavit in good faith. California law states that “[a] person who acts in good faith reliance on a caregiver’s authorization affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is not subject to criminal liability or to civil liability to any person, and is not subject to professional disciplinary action, for that reliance if the applicable portions of the affidavit are completed. This subdivision applies even if medical or dental care is provided to a minor in contravention of the wishes of the parent or other person having legal custody of the minor as long as the person providing the medical or dental care has no actual knowledge of the wishes of the parent or other person having legal custody of the minor.”¹⁶

¹⁵ Cal. Fam. Code § 6550(d).

¹⁶ Cal. Fam. Code § 6550(c).

1. Can I fill out a Caregiver Authorization Affidavit?

Are you 18 years or older, taking care of a child under 18 years old, and do not have legal custody or guardianship of the child?

No

You cannot use a Caregiver Authorization Affidavit.

Yes

You can use a Caregiver Affidavit to enroll a child in school and consent to some medical decisions. (see question 2)

2. If I am a caregiver, what can I use the Caregiver Authorization Affidavit to do?

Are you one of the following?

The child's:

- Parent or Stepparent
- Brother, Sister, Stepbrother, Stepsister, Half-brother, or Half-sister
- Grandparent or Great-Grandparent
- Aunt, Uncle, Great-Aunt, Great-Uncle, Grand-Aunt or Grand-Uncle
- Niece or nephew
- First cousin
- Spouse

Or the spouse (husband or wife) of any of the people listed above (even if you are divorced from the person or the person has died).

No

You may use the Affidavit to enroll the child in school and consent to school-related medical care.

- Answer questions 1-4 on the Affidavit form and sign and date the form.
- Keep two copies for yourself and give copies to the child's school and medical providers.

Yes

You may use the Affidavit to enroll the child in school and consent to general medical care.

- Answer questions 1-8 on the Affidavit form and sign and date the form.
- Keep two copies for yourself and give copies to the child's school and medical providers.