

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

**Note:** California law does not require that caregivers are documented (have legal immigration status) in order to use a caregiver Affidavit. ORR sponsors may use the Affidavit, whether or not they are related to the child.

### 1. What is a Caregiver?

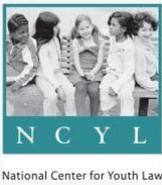
Many children live with adult “caregivers.” “Caregivers” are adults who are housing, feeding, and caring for children but who do not have formal legal custody of the children they are caring for. This may be because the family does not have the resources to obtain “legal guardianship” in court or because 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 whose parents are not nearby.

### 2. Why was the 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.” The purpose of the Affidavit is to ensure that minors living with non-parent caregivers have access to public education and essential medical care. California Bill Analysis, SB 592, Sen. Report, May 20, 1994.

### 3. What is a Caregiver Authorization Affidavit?

A Caregiver Authorization 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 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 Affidavit. Cal. Fam. Code § 6550.



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

The 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 Affidavit allow “qualified relative” caregivers to do?**
  - If the caregiver is a “qualified relative” to the child, the caregiver can use the form to enroll the child in school and to consent to medical and dental treatment for the child. Cal. Fam. Code § 6550. 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 Affidavit allow non-relative caregivers to do?**
  - If the caregiver does not meet the definition of “qualified relative,” the 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.”

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

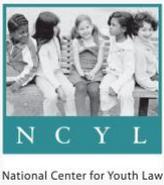
A caregiver is a qualified relative if they are the child’s:

- 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. Cal. Fam. Code § 6550 (h)(2).

#### 6. Can someone still use the 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 Affidavit to enroll the child in school and give consent for school-related medical decisions. There is no requirement that the caregiver be a relative.



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

“School-related medical care” is “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.” Cal. Fam. Code § 6550(h)(3). Caregivers may wish to contact a lawyer about what kinds of medical care this definition might include.

## 8. Can a “sponsor” of an unaccompanied immigrant minor use the Affidavit?

Yes. All of the same requirements apply to an ORR sponsor – 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. Can a person who is undocumented use the Affidavit?

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

## 10. What kind of documentation is required to use the Affidavit?

If the caregiver wants to use the Affidavit as a non-relative caregiver, then there is no documentation required. However, if the caregiver wants to use the 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. 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. Fam. Code § 6552.

Under California law, a person that is undocumented (without legal immigration status) may still obtain a California driver’s license or identification card. Cal. Veh. Code § 12801.9.

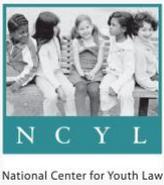
## 11. How do caregivers fill out the Affidavit?

- **Non-relative caregivers:**

If a caregiver is using the 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 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. Does the Affidavit need to be notarized?**

No. California law does not require a Caregiver Authorization 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.

## **13. What should caregivers do with the Affidavit once it has been filled out?**

First, caregivers should make several copies of the form. Caregivers should keep one copy at home in a safe place, and keep 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.

## **14. Does the Affidavit ever expire?**

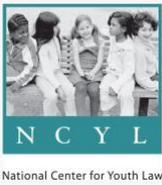
No. As long as the child continues to live with the caregiver, the Affidavit does not expire. However, if the child moves out, then the caregiver must notify everyone to whom the Affidavit was given. It is recommended that caregivers keep a list of everyone who has been given a copy of the Affidavit. Cal. Fam. Code § 6550(f).

## **15. What if the caregiver moves?**

If the caregiver moves within the state of California, they will need to complete a new Affidavit with their new address. If the caregiver moves outside the state of California, the Affidavit is no longer valid. The Affidavit is only valid in the state of California.

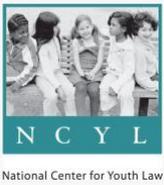
## **16. How can a health care provider know if an Affidavit is legitimate?**

California law clearly states that "[a] person who relies on the affidavit has no obligation to make any further inquiry or investigation." Cal. Fam. Code § 6550(d). Therefore, if a health care provider relies on an Affidavit, they are not required to check that the information written on the Affidavit is correct.

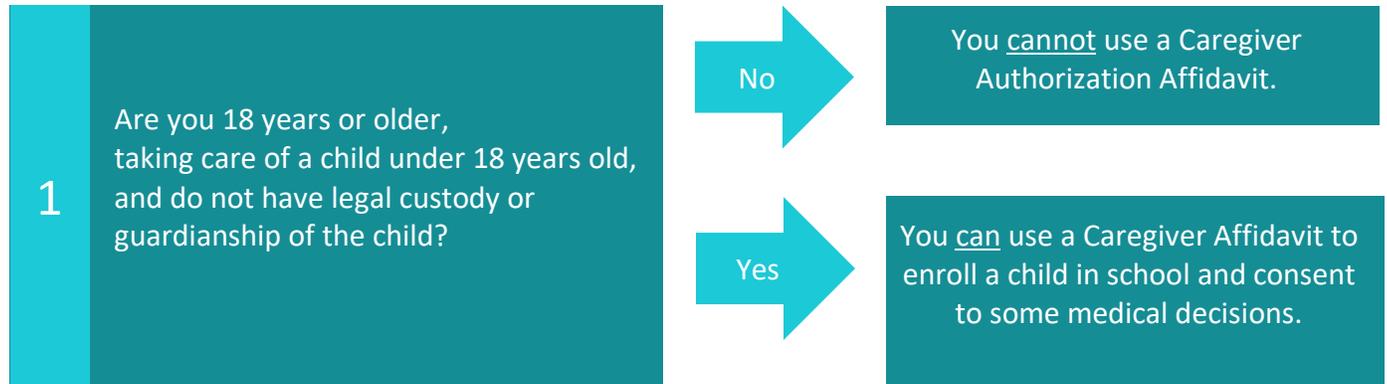


## **17. Can a health care provider be held liable if the Affidavit is not legitimate?**

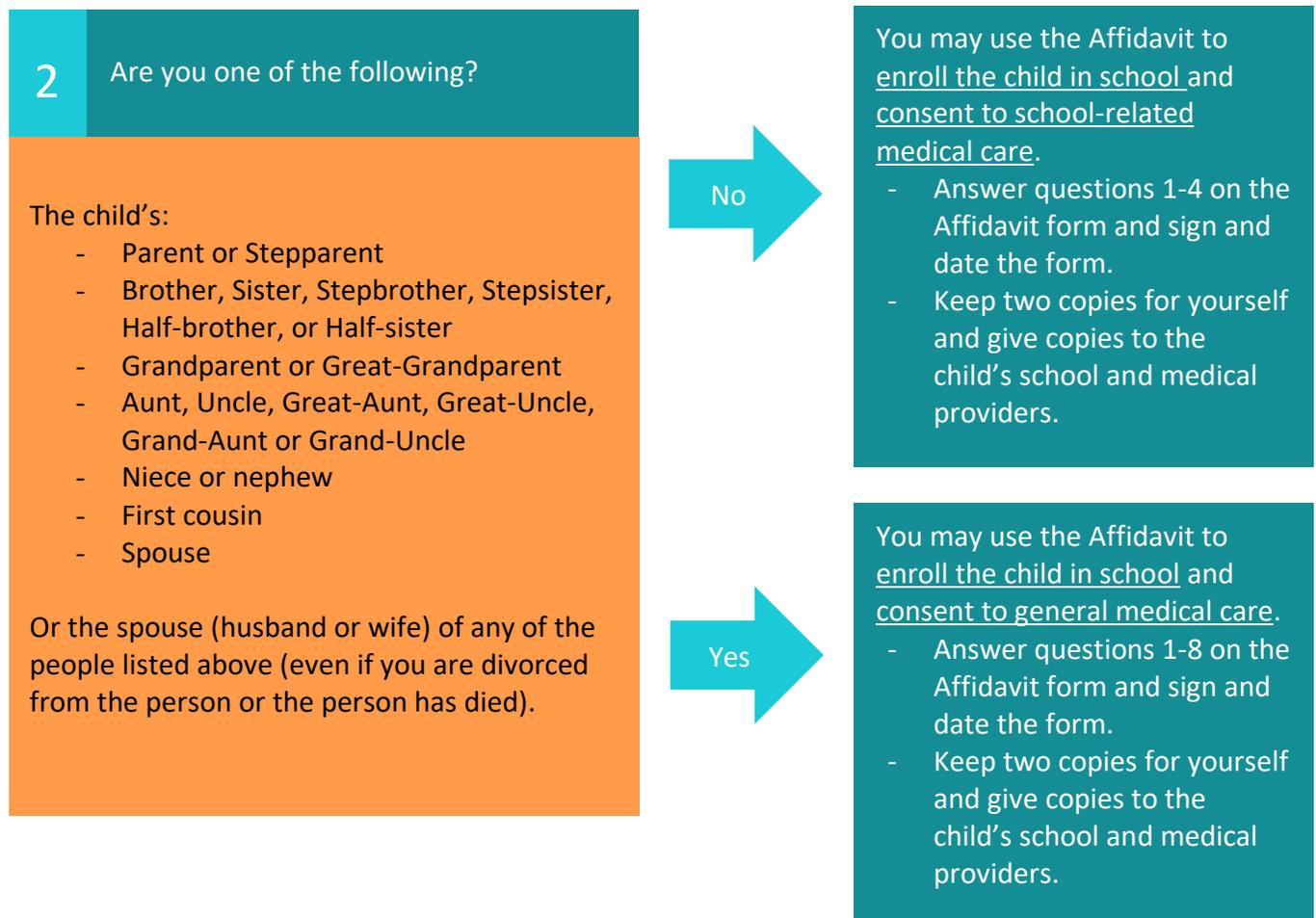
No, not if the health care provider has relied on the Affidavit in good faith. California law states that “[a] person who acts in good faith reliance on a caregiver’s authorization affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, 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.” Cal. Fam. Code § 6550(c).



## Can I fill out a Caregiver Authorization Affidavit?



## What can I use the Caregiver Authorization Affidavit to do?



## Caregiver's Authorization Affidavit

Use of this affidavit is authorized by Part 1.5 (commencing with Section 6550) of Division 11 of the California Family Code.

Instructions: Completion of items 1-4 and the signing of the affidavit is sufficient to authorize enrollment of a minor in school and authorize school-related medical care. Completion of items 5-8 is additionally required to authorize any other medical care. Print clearly.

The minor named below lives in my home and I am 18 years of age or older.

1. Name of minor: \_\_\_\_\_.

2. Minor's birth date: \_\_\_\_\_.

3. My name (adult giving authorization): \_\_\_\_\_.

4. My home address: \_\_\_\_\_  
\_\_\_\_\_.

5.  I am a grandparent, aunt, uncle, or other qualified relative of the minor (see back of this form for a definition of "qualified relative").

6. Check one or both (for example, if one parent was advised and the other cannot be located):

I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.

I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.

7. My date of birth: \_\_\_\_\_.

8. My California driver's license or identification card number: \_\_\_\_\_.

**Warning: Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_

*Notices on back of this page.*

Notices:

1. This declaration does not affect the rights of the minor's parents or legal guardian regarding the care, custody, and control of the minor, and does not mean that the caregiver has legal custody of the minor.
2. A person who relies on this affidavit has no obligation to make any further inquiry or investigation.

Additional Information:

TO CAREGIVERS:

1. "Qualified relative," for purposes of item 5, means a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.
2. The law may require you, if you are not a relative or a currently licensed foster parent, to obtain a foster home license in order to care for a minor. If you have any questions, please contact your local department of social services.
3. If the minor stops living with you, you are required to notify any school, health care provider, or health care service plan to which you have given this affidavit. The affidavit is valid until the school, health care provider, or health care service plan receives notice that the minor no longer lives with you.
4. If you do not have the information requested in item 8 (California driver's license or I.D.), provide another form of identification such as your social security number or Medi-Cal number.

TO SCHOOL OFFICIALS:

1. Section 48204 of the Education Code provides that this affidavit constitutes a sufficient basis for a determination of residency of the minor, without the requirement of a guardianship or other custody order, unless the school district determines from actual facts that the minor is not living with the caregiver.
2. The school district may require additional reasonable evidence that the caregiver lives at the address provided in item 4.

TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:

1. A person who acts in good faith reliance upon 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 form are completed.
2. This affidavit does not confer dependency for health care coverage purposes.