

NEW

SUBJECT: DESIGNATION OF PERSON IN PARENTAL RELATION

In accordance with General Obligations Law Title 15-A, a parent of a minor or incapacitated person may designate another person as a person in parental relation to such minor or incapacitated person for certain health care and educational decisions for a period not exceeding six months. However, such parental designation is conditioned upon there being no prior order of any court in any jurisdiction currently in effect that would prohibit the parent from himself or herself exercising the same or similar authority; and provided further that, in the case where a court has ordered that both parents must agree on education or health decisions regarding the child, a designation in accordance with this law will not be valid unless both parents have given their consent.

The designation of a person in parental relation must be in writing in the form prescribed by General Obligations Law Title 15-A, and include specified information as set forth in law for designations of 30 days or less, as well as additional information required for designations of more than 30 days. The designation of a person in parental relation may be presented to any school that requires such designation by either the parent or designee. The designation may specify a period of time less than six months for which such designation will be valid unless earlier revoked by the parent in accordance with law. *However, a designation specifying a period of more than 30 days must be notarized.*

If no time period is specified in the designation, it will be valid until the earlier of revocation; or

- a) Revocation; or
- b) The expiration of 30 days from the date of signature if the designation does not meet the requirements for designations of more than 30 days; or
- c) Six months from the date of commencement specified in the designation if the designation meets the requirements for designations of more than 30 days.

Scope of Designation

A designation made in accordance with this law may specify:

- a) The treatment, diagnosis or activities for which consent is authorized;
- b) Any treatment, diagnosis or activity for which consent is not authorized; or
- c) Any other limitation on the duties and responsibilities conveyed by the designation.

Form of Designation

Designations in General

A designation of a person in parental relation pursuant to this law must be in writing and include:

- a) The name of the parent;
- b) The name of the designee;

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- c) The name of each minor or incapacitated person with respect to whom the designation is made;
- d) The parent's signature; and
- e) The date of the signature.

The designation may specify a period of time less than six months for which the designation will be valid unless earlier revoked by the parent in accordance with Section 5-1554 of General Obligations Law. However, any designation specifying a period of more than 30 days must also conform to the following provisions as set forth in law.

Designations for More Than 30 Days

A designation specifying a period of more than 30 days must also include:

- a) An address and telephone number where the parent can be reached;
- b) An address and telephone number where the designee can be reached;
- c) The date of birth of each minor or incapacitated person with respect to whom the designation is made;
- d) The date or contingent event on which the designation commences;
- e) The written consent of the designee to the designation; and
- f) A statement that there is no prior order of any court in any jurisdiction currently in effect prohibiting the parent from making the designation.

A designation specifying a period of more than 30 days must be notarized.

Revocation of Designation

A parent may revoke a designation by notifying, either orally or in writing, the designee or a school to which the designation has been presented, or by any other act evidencing a specific intent to revoke the designation. A designation will also be revoked upon the execution by the parent of a subsequent designation. Revocation by one parent authorized to execute such a designation will be deemed effective and complete revocation of a designation in accordance with law.

A designee who receives notification from a parent of any such revocation must immediately notify any school to which a designation has been presented. A parent may directly notify any such school of the revocation. The failure of the designee to notify the school of such revocation will not make revocation ineffective.

(Continued)

SUBJECT: DESIGNATION OF PERSON IN PARENTAL RELATION (Cont'd.)**Effect of Designation**

- a) A designee will possess all the powers and duties of a person in parental relation in accordance with Public Health Law Sections 2164 and 2504 and Education Law Sections 2 and 3212, unless otherwise specified in the designation.
- b) A designation will not impose upon a designee a duty to support in accordance with Family Court Act Section 413.
- c) A designation will not cause a change in the school district of residence of the child for purposes of the Education Law, and during the period of validity of the designation, the child will be presumed to be a resident of the school district in which the parent resided at the time the designation was made.
- d) A designation will terminate and be revoked upon the death or incapacity of the parent who signed the designation.
- e) The decision of a designee will be superseded by a contravening decision of a parent.

A person who acts based upon the consent of a designee reasonably and in the good faith belief that the parent has in fact authorized the designee to provide such consent may not be deemed to have acted negligently, unreasonably or improperly in accepting the designation and acting upon such consent. However, any such person may be deemed to have acted negligently, unreasonably or improperly if he or she has knowledge of facts indicating that the designation was never given, or did not extend to an act or acts in question, or was revoked.

No provision of Title 15-A of the General Obligations Law will be construed to require designation of a person in parental relation as provided within the statute where such designation is not otherwise required by law, rule or regulation.

General Obligations Law Title 15-A
Education Law Sections 2 and 3212
Public Health Law Sections 2164 and 2504
Family Court Act Section 413
Mental Hygiene Law Section 80.03

Adopted: 5/23/06
Revised:

POLICY

OLD change to 7260

2006

7660
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