

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0140/1
GMM:cjs:jf

October 18, 1999

In reviewing this draft, please note all of the following:

1. The draft does not use the term “natural parents” to describe whose authority to make educational decisions has been extinguished, but rather refers to all persons who are presumed to be a child’s parents under Wisconsin law, that is, not only a child’s biological parents, but also a child’s adoptive parents, a husband who has consented to the artificial insemination of his wife, a man who is married to a woman when a child is conceived and a man who is adjudicated to be a child’s father. Although 34 CFR 300.20 uses the term “*natural* parents,” it appears that the intent there was to distinguish those individuals from a child’s *foster* parents and not to limit the operation of the regulation to when a child’s *biological* parents have had that authority extinguished.

2. “Extinguished” is an unusual term that is not normally used in Wisconsin law when referring to the nullification of a parent’s rights and responsibilities. Instead, Wisconsin law uses the term “*termination* of parental rights” when that nullification is permanent. A parent’s rights and responsibilities can also be “extinguished” temporarily by a transfer of guardianship or legal custody. In those cases, the guardian or legal custodian, and not the parent, makes decisions for the child until such time as guardianship or legal custody is returned to the parent.

3. The draft only applies to foster parents and not to kinship care relatives or long-term kinship care relatives. If you want kinship care relatives and long-term kinship care relatives included, that will have to be specified.

If you have any questions, please do not hesitate to contact me directly.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: Gordon.Malaise@legis.state.wi.us