



A PARENT'S
**SURVIVAL
GUIDE**

WHEN SENDING YOUR
CHILD TO COLLEGE

A FREE REPORT
THAT ADDRESSES LEGAL
ISSUES EVERY PARENT
SHOULD KNOW ABOUT

Brought to you by:

BEINHAKERLAW

Thank you for ordering our **FREE** Report: *A Parent's Survival Guide When Sending Your Child to College*. This booklet, along with any of my other publications, is intended to teach you a little bit about some legal things you should know before you ship your son or daughter off on their new adventure. If they are already attending university, you should get these documents in place as soon as possible. I hope you find this booklet informative and helpful during this milestone in your life.

If you have any questions or comments about any of the material contained inside, feel free to email me at any time. I thank you for your interest and your feedback.

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Here's your . . .

FREE REPORT

A Parent's Survival Guide When Sending Your Child to College LEGAL ISSUES EVERY PARENT SHOULD KNOW ABOUT

So, you begin the process of preparing your child to start his or her freshman year. Maybe it's your first child going off to college or maybe you've done this before. Either way, the process usually starts with contact from the college or university – what to bring, dorm assignment, move-in date, etc... You might even have a friend in the local area whose child has attended the same university. So, you call them for the “low down” hints, tips and secrets – best days to arrive, best places to stay, things to know about parents' weekend (this one fills up fast!), best places to eat, etc...

What I usually find that is left out of the conversation – both by the university or by helpful friends – is a discussion of the legal documents your child needs in place to protect them in case of an emergency.

In most cases, your freshman is 18 or will soon turn 18. By legal standards, they are now adults. Neither the bursar nor the health center will speak with you about your child's “personal” information. I'd bet most parents don't see that coming! They're paying thousands of dollars (usually tens of thousands) and they have no right to information! Well they don't – you don't.

While you might consider having your now adult child, execute a will for him or herself, you should at least have certain documents in place before he or she goes off to school. Also, read about our [DocuBank](#) service at the end of the booklet. It's an inexpensive way to protect your child and give you a lot of peace of mind.



- **HIPAA Authorization Form**

As I stated before, you do not have a right to medical information about your 18-year-old child – at least not without his or her permission.

Unfortunately, a lot of parents find this out the hard way. They're child gets sick or is in an accident. They call the hospital or healthcare facility to get information on their child's condition. They're horrified when the nurse says, "Sorry, due to HIPAA, I am not authorized to provide you with any information."

HIPAA, or the Health Insurance Portability and Accountability Act of 1996, exists for good reason; it is a federal law that safeguards who can access an adult's private health information. The medical personnel at the hospital are prohibited by law from revealing health information to you – or anybody else – about your adult child; healthcare practitioners could face lofty fines and jail time if they violate HIPAA laws.

You can avoid this problem by having your child sign a HIPAA authorization form name you (and perhaps your spouse) as your child's *authorized representative*. It gives you the ability to ask for and receive information from healthcare providers about your son or daughter's health status, progress and treatment. This is particularly important in the event your adult child is unconscious or incapacitated for a period of time. Without a HIPAA authorization in place, the only other way to obtain information regarding your child's health would be to have a court appoint you as his or her guardian.

Our office can prepare this form for your child based upon New Jersey law. If your child is attending school out-of-state, we will do a search for a state specific healthcare form to be sure it is accepted in the jurisdiction where the college or university is located.

- **Healthcare Power of Attorney; Advanced Directive; Living Will**

Known by several names depending on the state in which you live (and sometimes just used interchangeably), a healthcare directive appoints you as their medical representative in case of the unlikely event your child is injured in an accident and is unable to make their own decisions. It often



includes HIPAA authorization language, but does not replace the HIPAA authorization as this document is only used in a terminal situation. It is a difficult and morbid thought, but you do not want to leave your child's medical decisions up to the courts.

Let's say that your daughter, an 18-year-old freshman at a college on the opposite end of the country, is unconscious in the hospital following an accident. If she has signed a Healthcare Power of Attorney naming you as her "medical agent," you will have the ability to view her medical records and make informed medical decisions on her behalf. Without this document or a court-appointed guardianship, healthcare decisions concerning your daughter's diagnosis and treatment will be solely in the hands of healthcare providers. While this is not always a bad thing, a physician's primary duty is to keep the patient alive. So, a healthcare provider might not pursue a risky or experimental course of treatment at the risk of exposure to liability.

Keep in mind that doctors prefer to see one medical representative named, rather than multiple ones with joint decision-making authority. The concern is that multiple representatives may not agree on the medical course of action to take on behalf of the incapacitated adult. As a best practice, it's prudent to name one representative, with multiple alternates in priority order.

- **Durable General Power of Attorney**

Finally, a durable general power of attorney would name you as the "agent" authorized to make financial decisions on your child's behalf. This would allow you as the named agent to manage bank accounts, pay bills, sign tax returns, apply for government benefits, break or apply for a lease, and conduct similar activities relating to your child's financial and legal affairs if they are unable to do so for themselves. "Durable" meaning you are granted this power upon signing of the document and it continues until revoke in writing. Nondurable powers terminate upon a disability. "General" in that it is not limited to any particular situation, bank account or other asset. Otherwise, you will not be able to assist



your child in managing his or her financial affairs without a court-appointed conservatorship.

Here are some important considerations:

You should update these forms yearly. Be prepared to have your adult child re-sign and re-execute these documents every couple of years. This is especially critical for Powers of Attorney. The institutions where you would be most likely to use these documents – such as hospitals and banks – might refuse to honor them if they perceive them to be outdated.

These documents are only as good as the institutions that will accept them. Making sure these documents are properly executed is half the battle; whether they will be accepted by the involved institutions is the other half of the battle—one you don't have complete control over. Finding local forms or ones used by the particular institution or facility can help avoid these issues.

These documents can be revoked at any time by your adult child either orally or in writing. Your adult child retains control of the ongoing validity of these documents; therefore, your best bet is to maintain a trusting relationship with your child so he/she sees the benefit of giving you the access and control these documents afford.

For adult children attending college at an out-of-state university, parents will want to execute separate documents in both the student's home state and college state. If your son is from New Jersey, but is attending college in Indiana, you'll want one set of documents prepared governed by New Jersey law and a second set of documents prepared governed by Indiana law.

So, as your child prepares to leave and works on his or her “to do” list of all the things they need for school, put these documents on the list and call my office today. We can prepare everything by telephone until they need to be signed.



DocuBank – Instant Access to Vital Documents

I offer a service through my practice that I include with all estate plans. There is a special aspect for college kids. Your advance directives are frequently unavailable when they're needed for a variety of reasons, especially with regard to your child at college. That can add additional stress to an already trying time – children away for the first time, you being without them, etc...



The DocuBank Emergency Card makes your child's advance directive immediately accessible 24/7. Hospital staff can obtain their directive via fax or print them from the DocuBank website. This service will also notify up to three emergency contacts which would almost certainly include you. The card can also lists allergies and medical conditions to help doctors provide them with the best treatment. You can learn more about this service by watching their [online video](#).

The DocuBank SAFE allows you to store other important documents, including their HIPAA Authorization and Power of Attorney, along with digital asset information in one online location. This provides the flexibility of having important documents accessible anytime, anywhere in the world.

** Five-year memberships for college students, minor children or special needs adults are available for \$125. Rates may be subject to change. Please contact my office for current information.*

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About the Author



Mitchell C. Beinhaker, Esq. is an estates attorney and business advisor who runs a solo legal/consulting practice representing business owners, entrepreneurs, executives and professionals. He was the former director and founder of a New Jersey-based boutique commercial law firm. In that capacity, Mitchell handled business development, marketing, firm management, along with business transactional work for clients of the firm. He has extensive experience with corporate governance, commercial transactions, real estate and risk analysis. Through his 25 years of practical experience, he drafts contracts, negotiates purchases and can manage outside counsel for any corporate situation. For business owners and executives, he creates and implements estate plans, along with succession plans to help companies continue for future generations.

As a transactional attorney, Mitchell has handled the purchase and sale of multi-million-dollar businesses including insurance portfolios, restaurants, and even a small chemical company. In the real estate area, he has handled and coordinated many commercial purchases and sales from contract drafting and due diligence, including all the zoning and environmental review, through the closing of title. His work has involved helping with insurance and risk management as well as legal involvement with construction management projects.

During the early part of his career, Mitchell worked in-house with insurance companies and financial institutions helping design products for sale, as well as developing sales and tax strategies to facilitate the sale of those products. Specifically, he worked for Nationwide Insurance Company as their Senior Advanced Sales Specialist. Additionally, he spent three years as General Counsel and Advanced Tax Counsel to a northeast regional financial services company.

Mitchell spends his practice development efforts networking, attending professional groups and public speaking. He is also the creator and host of his own audio podcast – [The Accidental Entrepreneur](#) – where he interviews successful business people and professionals who share their knowledge and help you develop your business. Episodes are available on Apple Podcasts, Google Play, Spotify, Stitcher, TuneIn (Amazon Echo) and iHeartRadio.

Mitchell is a graduate of Cornell University ('89) and received his law degree (JD) from New York Law School in 1992. He was a tax intern with Internal Revenue during law school and is admitted to practice in the states of New Jersey and Pennsylvania. He was awarded the Chartered Life Underwriter (CLU) degree from The American College in 1998.

