



CUSTODIAL ACCOUNT OWNERSHIP AGREEMENT
(WCUL #81036 Rev. 7/23)
INSTRUCTIONS (Rev. 4/24)

WISCONSIN UTMA BASICS	1
COMPLETING THIS FORM	2
Account Type	2
Transfer	3

Terms and Conditions	3
Signature of Custodian	4
Designation of Successor Custodian	4
IRS Taxpayer Identification Number & Certification (on page 2)	5

This form is used to document transfer of funds to a custodian and open an account for the benefit of a minor under Wisconsin’s Uniform Transfers to Minors Act (UTMA).

WISCONSIN UTMA BASICS

Under the Wisconsin UTMA, a custodial account has three parties: the transferor, the custodian, and the minor. A fourth party – a successor custodian – may also be included.

An UTMA custodial account is a form of fiduciary account. The account is titled in the name of one minor and controlled by one custodian, who is named by the transferor. For purposes of Wisconsin’s UTMA, a minor is a person under the age of 21. When the minor reaches age 21, the custodian must transfer the funds in the account to the minor.

The custodian administers the account for the exclusive right and benefit of the minor and is the only party who may transact business on the account, barring a court order to the contrary. Any funds deposited or transferred to the account and the earnings on the account belong to the minor. The credit union may act on the instructions of or otherwise deal with the custodian and has no duty to inquire as to the validity or propriety of any instructions or actions of the custodian.

Only one custodian may be appointed for each Wisconsin UTMA custodial account, but a successor custodian may be named. A successor custodian may assume control of the account only upon the resignation, death, or legal incapacity of the custodian. If the minor dies before turning age twenty-one (21), ownership of the account balance will pass to the minor's estate. The minor's social security number is used for tax reporting purposes. For more information on UTMA accounts, see *ii Release No. 0012*.

To open a Wisconsin UTMA custodial account, the minor must be in the credit union’s field of membership. The custodian does not need to qualify for membership because the funds in the account belong to the minor. Use a Membership Application Card (WCUL form #81056) to establish membership in the minor’s name. For more guidance on The League’s membership and account forms, see *ii Release No. 0002*.

Under U.S. Treasury Department and NCUA rules, every credit union must have a Customer Identification Program (CIP). The CIP rules require the credit union to collect certain information from “customers.” Because of the way that the CIP rules define the term “customer,” when an adult custodian opens an account for a minor, the credit union needs to take steps to verify the custodian’s identity. It can also choose to verify the minor’s identity, but the CIP rules do not require this.

The Custodial Account Ownership Agreement form may only be used to open a Wisconsin UTMA account for one minor, with the account controlled until age 21 by one custodian unless the custodian resigns, dies, or is

The Wisconsin Credit Union League

1 East Main Street, Suite 101, Madison, WI 53703-5109 Phone: (608) 640-4040 (800) 242-0833 Fax: (608) 250-2606 Web: www.theleague.coop



CUSTODIAL ACCOUNT OWNERSHIP AGREEMENT
(WCUL #81036 Rev. 7/23)
INSTRUCTIONS (Rev. 4/24)

removed. No payable on death (P.O.D.) beneficiary may be designated because the custodian lacks authority to make gifts of the minor's property, and the minor has no right to control the funds until they reach the age of 21. The form includes a separately signed substitute IRS Taxpayer Identification Number & Certification. This form has no setoff language or agent designation (Wis. Stats. §705.05).

A separate Custodial Account Ownership Agreement form must be completed for each account (identified by the membership/base number and numerical suffix) that is created by transfer under the UTMA. The form is not designed to govern multiple accounts under the membership/base number.

This form does not establish membership in the credit union. A separate form is available for that purpose, the Credit Union Membership Application (#81056). This form does not include a payable on death (P.O.D.) designation or an agent designation.

Do not use this form with the WCUL Share Certificate (#82012). That form is designed with its own self-contained account ownership terms so does not need this signature card form. If both are used, the terms may conflict, creating legal risks for the credit union. Please call The League's Compliance Hotline if a member wants to open a share certificate as an UTMA custodial account.

COMPLETING THIS FORM

At the top of the form, insert the full legal name of the credit union. Insert the account number – the full membership or base number and the numerical suffix used to identify this particular account. ***Do not just enter a membership number, that is not a complete account number.*** A separate card needs to be completed for each account suffix.

Do not alter or allow the form to be altered after the custodian has signed it.

Account Type

Check one box to indicate the type of account for the suffix listed. Use *Other* if the none of the other choices applies and enter in the particular type of account.

Non-member deposit accounts owned by individuals are only available at credit unions with a low-income designation from the Office of Credit Unions or the NCUA.

Share certificate is not listed as an account type because The League's Share Certificate (#82012) form is not designed to be used with a separate signature card such as this form. Conflicting terms may result. If this account ownership agreement is used with another vendor's share certificate (or certificate of deposit where the vendor requires use of a signature card, check the "Other box and list the account type. This is often the case for the "receipt" or "certificateless" type of share certificate or certificate of deposit.

- The NCUA Truth in Savings rules says a member-owned certificate earns *dividends* and must be called a *share certificate*. A non-member owned certificate earns *interest* and must be called a *certificate of*

The Wisconsin Credit Union League

1 East Main Street, Suite 101, Madison, WI 53703-5109 Phone: (608) 640-4040 (800) 242-0833 Fax: (608) 250-2606 Web: www.theleague.coop



CUSTODIAL ACCOUNT OWNERSHIP AGREEMENT **(WCUL #81036 Rev. 7/23)** **INSTRUCTIONS (Rev. 4/24)**

deposit. See the Official Staff Interpretation in 12 CFR Part 707 Appendix C, Section 707.2 (a) 5. The two account names are not interchangeable and have different disclosure requirements under Truth in Savings.

Below the Account Type there are spaces for the minor's name, Social Security Number or ITIN, and birth date. Next are spaces for the custodian's name, phone number, address, and email. Account statements and 1099-INT or 1099-OID information returns must be sent to the custodian of the account.

Transfer

This section must be completed to document the creation of the custodianship. The transferor names the custodian who will handle the account. The same person may be both transferor and custodian, or they could be different people. For example, grandparents may transfer funds to establish the account, but name the parents of a minor as the custodians for the account. Anyone can be a transferor.

This form recites that the transferor is delivering funds to the credit union in the name of a custodian followed by the words "as custodian for (name of minor) under the Wisconsin Uniform Transfers to Minors Act." The Transfer section is completed with the amount of the initial deposit, the name of the custodian and the name of the minor (owner). This is followed by the signature of the transferor and the date of their signature.

The UTMA says that the custodian must be the transferor, an adult or a trust company.

This transfer is irrevocable. This means that once the transfer is made, the transferor cannot take back ownership of the funds.

Terms and Conditions

The completed custodial account ownership agreement form is a binding legal contract. It is important to be familiar with the terms and conditions. Do not use this form if the terms and conditions are inconsistent with the credit union's policies procedures and other needs. The form does not include language authorizing set off against the debts of either the minor or the custodian.

Acknowledge receipt of, and agreement to, the terms and conditions of listed agreements/disclosures. This section enables the credit union to get the custodian's agreement to rates, fees, and many other provisions in consumer disclosures and other documents. It is important for staff to mark the disclosures and agreements provided at account opening. Winning a dispute with a member in court may depend on the credit union's diligence in accurately listing the documents' provided. Several *Other* lines are available, so the credit union can list documents provided whose names are not specifically listed on the custodial account ownership agreement.

As of 2021, two versions of The League's lengthy account agreement brochure form are available.

- *Your Account Agreement, with Arbitration Agreement (#83005), and*

The Wisconsin Credit Union League

1 East Main Street, Suite 101, Madison, WI 53703-5109 Phone: (608) 640-4040 (800) 242-0833 Fax: (608) 250-2606 Web: www.theleague.coop

CUSTODIAL ACCOUNT OWNERSHIP AGREEMENT
(WCUL #81036 Rev. 7/23)
INSTRUCTIONS (Rev. 4/24)

○ *Your Account Agreement* (#83006)

The credit union should carefully choose one of the two versions to purchase for use with all accounts. Both versions include nine pages of legal clauses that the account owners agree as terms and conditions of the account. Carefully consider, in consultation with your attorney, whether to use #83005 which includes an arbitration agreement.

In the list of documents provided at account opening, be sure to properly indicates which of the account agreement documents is provided to the borrower. If the checkbox for *Your Account Agreement, with Arbitration Agreement* is marked, an asterisk refers to this notice on the signature card:

***PLEASE NOTE: The Arbitration Agreement, applicable to consumers, provides that disputes will be resolved by an arbitrator instead of a judge or jury (unless the dispute is excluded or relates to a transaction that cannot, by law, be subject to arbitration or you opt out)** which means that YOU WILL NOT BE ABLE TO PARTICIPATE IN A CLASS ACTION. Arbitration procedures are simpler than court procedures, but many procedures permitted in court are limited or not available. You may opt out for a limited time; see the Arbitration Agreement.

Credit unions should keep recordkeeping systems tracking what specific documents (identified by title and revision date) are provided at account opening, and keep master copies of those documents. This is to enable the credit union to establish in court, if necessary, exactly what terms were provided to and agreed to by the accountholder.

Signature of Custodian

The custodian must sign and date the account ownership agreement. The form must be completed before the custodian signs it.

Designation of Successor Custodian

The credit union can help members avoid problems in the future by encouraging the custodian to name a successor. The UTMA does not require a successor, but without one, the family might need to go to court if the custodian dies. The successor takes control of the account if the custodian resigns, dies, becomes incapacitated, or is removed by a court.

The custodian can name an adult or a trust company as successor “at any time.” (Wis. Stats. § 54.888.) (The successor custodian cannot be the transferor, however.) The designation must be in writing, signed (with a witness) and dated. The Custodial Account Ownership Agreement includes space for this.

Sometimes, the designation will be accompanied by the original custodian’s resignation. Otherwise, it becomes effective when the original custodian dies, resigns, becomes incapacitated or is removed by a court.

The Wisconsin Credit Union League

1 East Main Street, Suite 101, Madison, WI 53703-5109 Phone: (608) 640-4040 (800) 242-0833 Fax: (608) 250-2606 Web: www.theleague.coop



CUSTODIAL ACCOUNT OWNERSHIP AGREEMENT
(WCUL #81036 Rev. 7/23)
INSTRUCTIONS (Rev. 4/24)

Only one successor may be custodian on the account at a given time. A successor who becomes custodian may then designate a new successor custodian.

This section of the form is completed at account opening or at a later time. Insert the name of the successor, their address, zip code, and email. The custodian signs and dates the completed designation.

IRS Taxpayer Identification Number & Certification (on page 2)

The credit union must obtain the certified taxpayer identification number (e.g., SSN or ITIN) of the minor for IRS information returns reporting. Otherwise, the credit union faces IRS penalties and the requirement to backup withhold on dividends paid. Rather than use the IRS [Form W-9 Request for Taxpayer Identification Number and Certification](#) credit unions are permitted to use a separately signed substitute form such as this, which includes the required *Certification Instructions*. The full IRS form should always be readily available and furnished to the custodian upon request since it includes more extensive instructions. Further guidance for the credit union is available in the IRS [Instructions for the Requester of Form W-9](#).

The custodian completes the TIN certification based on the minor's Taxpayer Identification Number. If the account owner (minor) is not a U.S. person, the custodian should request and complete Form W-8 Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals).

The TIN certification includes spaces for FATCA and exempt payee codes in case needed for FATCA compliance.

As required by law, the TIN Certification section instructs the taxpayer to strike clause #2 if the account owner has been notified by the IRS that they are currently subject to backup withholding because they have failed to report all interest and dividends on the tax return. On this form a checkbox has been added with an instruction that the taxpayer should mark it if they consequently strike clause #2. The checkbox could be mapped by the credit union data processor to alert the credit union if the box has been checked, as backup withholding may be required.

Besides needing the TIN certification for the minor, the credit union must collect and analyze their TIN and other information as part of its Customer Identification Program (CIP) under Bank Secrecy Act regulations. The League offers the Customer Identification Card (#81080), which can be used to collect an individual's basic CIP information and fulfill recordkeeping requirements.

JCE

The Wisconsin Credit Union League

1 East Main Street, Suite 101, Madison, WI 53703-5109 Phone: (608) 640-4040 (800) 242-0833 Fax: (608) 250-2606 Web: www.theleague.coop