

Dealing with Child Custody Issues

School administrators often have to deal with custody issues regarding the students enrolled at the school. Below are some basic definitions and key points to assist you in these matters.

Legal custody is the right to make decisions for the child and includes educational rights and decisions such as special education, grade change appeals, and authorizing access to pupil records. Physical custody indicates where the child resides. When the order states parents have joint physical custody, consideration should be made as to which school the child attends if the parents live within different school attendance areas. Joint custody is the most common custody arrangement. When the order states the parents have joint custody, both parents have equal rights and either can make decisions, consent to services, etc. unless otherwise noted in the custody order.

Key Points to Remember:

- School personnel have no legal obligation to provide letters of support/recommendation for parents involved in custody battles
- For parents with joint legal and physical custody who split time during the school week, you may want to have each fill out an emergency card. Caveat: whether or not a court order exists, school should not release a child to a dangerous person/situation—contact police or DCFS instead.
- If there is no custody order (e.g., separation, never married), verified biological parents have equal rights to the child. Ways to verify include a state-issued identification card along with a birth certificate, paternity action, or custody order stating this individual is the parent.
- For students in the juvenile court system, schools may receive a copy of an order limiting the parent’s educational rights and appointing a “responsible adult” to be the “holder of educational rights.” This appointee functions as parent for purposes of educational decisions, including special education.
- The school is NOT a party to a custody order. The school is also not a judge and can’t create or imply parental rights. Follow the most recent custody order the parents have provided to the school.

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