



August 2014

TO: Administrators  
School Secretaries  
Counselors  
Educational Support Service Staff

FROM: Sheldon Berman

RE: Child Custody

The purpose of this memorandum is to review some general guidelines about child custody issues. REMEMBER, each situation is different, some of them are very complex, and these general guidelines may not apply to all situations.

Call either Sara Cramer (Pre-K–5) at x7564 or Randy Bernstein Moses (6–12) at x7877, whenever you have a question or just want to talk about how to deal with a situation.

### **1. Safety of Students First**

School staffs are responsible for ensuring that children are safe while at school. If you are going to make a mistake, make one that protects the safety of the student, even if it makes a custodial or non-custodial parent angry.

You need, however, to be objective and ultimately make a decision that is legally correct, even if you disagree with it.

### **2. Directory Information**

We have instances when people call or visit a school asking for directory information (e.g., addresses and phone number).

Generally, directory information is released only in conjunction with school or school district related activities. School Board policy prohibits distributing a list of student names.

**NEVER** release directory information about a student to a stranger (including an attorney or private detective) unless you know that person is authorized to have the information.

Parents have a right to directory information about their children, but if someone says he or she is a parent, obtain proof that they are the parent.

Tell that person that you will call the custodial parent (or the parent in whose control the child is) before releasing the directory information.

### **3. Release of Information to the Department of Human Services DHS and Law Enforcement Agencies**

You may release directory information and other personal information to the Department of Human Services (DHS) or a law enforcement agency, if they say they need it to protect the health and safety of the student or other individuals or they are investigating child abuse.

### **4. Releasing a Child**

Release a child only to an adult that the parent with whom the child lives authorized, except as provided below.

Do not release a child to a non-custodial parent without the consent of the custodial parent.

If a parent you do not know comes to school with a court order that appears to give that parent custody of one of your students, do not automatically release the child to that parent. The parent with whom the child lives may have a more recent court order or other information that is important to consider.

Tell the parent that there are two things you can do:

- 1) You can call the parent with whom the child lives to see if he or she consents to releasing the child. If the parent who came to the school decides to withdraw the request and says, "Don't tell the custodial parent," find out why and say that you think you need to inform the custodial parent. If you believe there is a legitimate reason to withhold the information from the custodial parent, let's talk.

If this does not resolve the issue and the parents are going to have a dispute at school about who should take the child or you believe there is something odd, you should call your supervisor or a law enforcement officer to help you determine how to proceed. We may decide to consult with our legal counsel.

- 2) You can tell a parent who comes to the school claiming to have custody that you will release the child as soon as you have discussed the court order with either the Central Office and you get approval and/or if directed to by the Department of Human Services (DHS) or a law enforcement officer. Parents with legitimate claims often have already contacted the police or DHS

A police officer or an official from DHS may not take a child from school without a court order, an arrest, protective custody, or permission of the parent or guardian.

### **5. Visitation**

Non-custodial parents do not have an automatic right to visit their children at school. The custodial parent controls who visits the child at school unless the divorce decree or court order specifies otherwise. It usually does not.

The primary purpose of school is for a student to receive instruction, not to visit with parents.

#### **6. Non-Custodial Parent's Rights to Records**

Ordinarily, both parents (custodial and non-custodial parents) have the right to receive all information about their children and to examine all student records of their child unless there is a court order specifying that access to records is limited. This is rarely the case.

When parents are separated and no legal custody has been awarded, or when a parent has been designated a non-custodial parent by a court order, the following procedure shall apply, unless otherwise provided by a court order:

- 1) Each parent, or a representative of a parent if authorized in writing by the parent, may inspect and review the education records of that parent's child.
- 2) Each parent has a right to question the appropriate licensed staff and make reasonable requests for explanations and interpretations of the student records. Licensed staff is not required to respond to requests by parent's representatives for explanations or interpretations of records.

There is nothing that limits your ability to inform the custodial parent when you release such records.