

**OFFICE OF THE GENERAL COUNSEL
SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**

PARENTAL RIGHTS ¹

Guiding Principles for Decision-Making Involving Parental Rights

1. "Parents" have equal rights under Florida law unless restricted or revoked by a court order. This includes registering and non-registering parents (except under Board Policy 5.1 only the registering parent may withdraw the student). The definition of parent includes "any person "exercising supervisory authority" over a student in place of a parent" (Board Policy 5.1, section I.E.) This definition includes step-parents when the child resides with the step-parent.
2. Both parents have equal rights to student information and student records except where restricted by court order. (FERPA, Board Policy 5100.1 Student Records.)
3. Both parents have equal rights to complete his/her own emergency contact card. Board Policy 5.1, *Enrollment and Withdrawal*, provides that both parents may also authorize additional persons to pick up the child from school.
See <http://www.broward.k12.fl.us/sbbcpolicies/docs/P5.1.000.pdf>
4. Only the registering parent is authorized to withdraw the child from school except for documented exceptional circumstances. (Board Policy 5.1, Section VII.)
5. No parental contact is allowed on school grounds if a court order prohibits contact or provides for supervised visitation. No supervised visitation takes place at school.
6. If a parent presents a court order to the school, forward it to the General Counsel's Office for review and interpretation as to any limitations on the parental rights.
7. Majority age students who show they are not "dependent students" as defined in the Internal Revenue Code may make their own educational decisions. If the student is a "dependent student," we require parental involvement in educational decisions except for withdrawal.
8. School employees must review the applicable Board Policies as they are updated and revised from time to time.

¹ Last updated on: September 30, 2013

FAQs RE PARENTAL RIGHTS²

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Student Records and Student Information:

1. Does the registering parent have greater rights than the non-registering parent as far as access to student information and/or educational records?

Answer:

No. Both parents have equal rights under state and federal law as it pertains to student information and records, unless a court order restricts those rights. (See §§1002.22 and 1002.221, Fla. Stat. and FERPA, Board Policy 5100.1, Student Records.)

2. When a registering parent requests the school not to disclose student information to the non-registering parent, what is the school required to do?

Answer:

The school must tell the registering parent that the school cannot honor the request because both parents have equal rights to student information except where a certified copy of a court order has been submitted to the school indicating that the court has terminated the parental rights of the other parent.

3. The parents are in the process of getting divorced and each parent has requested a copy of portions of student records to present to the judge in the divorce proceeding. Should the school give an identical copy of the school records to each parent?

² **Caveat:** Unless otherwise indicated, the answers are based on the assumption that no court order has been entered restricting or revoking, in whole or in part, the parental rights at issue, declaring a "final decision maker for education issues," or establishing a parenting plan that overrides the information provided in this document. If a certified copy of a court order has been presented to the school, the school should provide a copy to the General Counsel's Office for review and guidance.

Answer:

The school must give each parent the education records the parent has requested. Each may request different information or records. If the parent requests an identical copy of the records provided to the other parent, then the school should do so. Under Board Policy 5100.1, *Student Records*, the school must provide the records requested within a reasonable time not to exceed 30 days from the date the request was received.

For all records requests, the school must provide a cost estimate and obtain advance payment of the charges due. The charges include photocopying charges and staff time taken to prepare the records (if more than 15 minutes of staff time is required.) If the request is only for inspection of the records (no photocopies), the charges are limited to the staff time taken to prepare and to supervise the inspection of the records. The charges for staff time should be calculated at the lowest paid employee who is qualified to do the job, and the amount is to include the percentage for employee benefits (contact Public Relations and Governmental Affairs to obtain the current information).

Emergency Contact Cards:

4. The registering parent did not list the name of the non-registering parent in the emergency contact card. The non-registering parent comes to the school to sign the child out for “early release” (prior to dismissal time) for a doctor’s appointment. Should the school release the child to the non-registering parent during school hours?

Answer:

Yes. The amendment to Board Policy 5.1 in January 2013 gives both parents equal rights to sign the child out early. The Policy at Section IV provides:

1. Emergency contact card procedure: The names of both parents (as defined in F. S. 1000.21(5)) the registering parent and the non-registering parent, shall be listed on the emergency contact card as persons authorized to pick up the child from school except where a court order has revoked the parental rights of the parent and a certified copy of such court order has been provided to the school.

2. Both parents shall designate on the emergency contact card those persons authorized to pick their child up from school. No parent shall delete or in any way alter the names provided by the other parent on the emergency contact card. It is both parents' responsibility to inform the school of any changes to the information each of them has provided on the emergency contact card.

3. Withdrawal procedure: Only the parent who registers the student may withdraw the minor student from his/her current school, without documentation of extenuating circumstances indicating otherwise.

(Emphasis added.)

The parent who wishes to deny this right to the other parent must first obtain a court order restricting the other parents' rights and present a certified copy to the school.

5. The parents are divorced and the registering parent did not list the name of the non-registering parent on the emergency contact card. The non-registering parent requests the school to add his name and the name of his fiancé to the emergency contact card. Should the school honor his request?

Answer:

Yes, however, the school staff must not enter any information on the card. Rather, the school staff must give a blank emergency contact card to the non-registering parent for him or her to complete. (Board Policy 5.1, Section IV.)

Registration and Withdrawal

6. The non-registering parent takes the student to another school in the District to register the child, and the new school calls the original school and requests to withdraw the student so the new school can register the child. Should the original school honor the request of the new school?

Answer:

It depends on the circumstances. Before withdrawing the student, the original school *must* inquire as to who is making the request and must determine if it is the registering or the non-registering parent. (Board Policy 5.1, Section IV.) Note the non-registering parent at the old school may become the registering parent at the new school. If it is the non-registering parent who is requesting the

withdrawal, the original school should contact the registering parent and determine if the student's residence has changed. Is the child now residing with the non-registering parent? If so, the original school should process the withdrawal request. If not, the withdrawal request should be denied.

7. When the parents are not living together in the same household and both of them attempt to register the child at different schools (the school nearest to his or her home), how should this situation be handled?

Answer:

The determination of which school is the "boundary school" which the child is assigned to attend depends on the facts of the particular case. Each school needs to implement Board Policy 5.1 to determine the "primary residence" of the child. The Policy states in pertinent part:

STUDENTS ARE TO ATTEND THE SCHOOL TO WHICH THEY ARE BOUNDARIED, ON THE BASIS OF THE GEOGRAPHICAL BOUNDARY IN WHICH THE PARENT(S) RESIDE, UNLESS OTHER SCHOOL BOARD POLICIES APPLY.

The Board Policy defines "**Residence**" as:

"The primary residence is the home in which the child(ren) spends most of his/her time."

Based on Board Policy, the school must determine the home in which the child spends "most of his/her time." As necessary, contact should be made with both parents. On many occasions the child spends school days with one parent and the non-school days with the other parent. In this case the primary residence is the home where the child resides during school days.

In the event that the custody is 50/50 and the parents cannot agree on which school the child is to attend, the court may resolve the dispute by designating one of the parents to be the "*final decision maker for education issues*" or by designating the residence address to be utilized for school enrollment.

In summary, a case-by-case determination must be made, and the General Counsel's Office may be contacted for guidance.

8. The non-registering parent is not listed in the registration form. He/she presented a restraining order against the registering parent. Restraining Order states that the registering parent is not to have contact with the children until further order of the court.
- (a) Does the school honor the restraining order against the registering parent?
 - (b) Is the non-registering parent allowed to sign out the students for early release?

Answer:

- (a) Yes. The court has determined that it is not safe for the children to have contact or to remain with the registering parent. As such, the court order supersedes the registration and emergency contact card documents.
- (b) Yes. In general, both parents may pick up the child at school, except, as in this case, a court order prohibits it. Board Policy 5.1.

9. Both parents registered the child and both signed the registration papers. The parents have since separated and moved to different counties. Which of the parents will be able to withdraw the child from school?

Answer:

Under the Board Policy both parents have the right to withdraw the child from school because both are registering parents. Most likely, the first parent to request withdrawal will be able to do so. The other parent will have to go to court for a resolution of their dispute as to where the child should be attending school.

10. The mother is the registering parent and is requesting to withdraw the child in order to register the child in a new county. The father is making the same request so that he can register the child at a school near his new home. Both are requesting copies of the child's educational records. What should the school tell each parent?

Answer:

The school staff must tell both parents that, under Board Policy 5.1, Section IV, only the registering parent may withdraw the child from a BCPS school. As such, only the mother may withdraw the child. Because both parents have equal rights to education records and information, the school must provide each parent the records requested.

11. Does the registering parent have greater rights than the non-registering parent with respect to educational decisions (academic courses, extra-curricular activities, etc.)?

Answer:

Under some circumstances, yes. It depends on the facts of each case. When parents give the school inconsistent or conflicting instructions, the school is not able to comply with both instructions. The school must advise the parents that the school cannot honor conflicting instructions. As a general rule, the school officials will follow the instructions of *the* registering parent; however, exceptions apply from time to time. See question # 12 below and see "Final Decision Maker" section below.

12. The parents are divorced and have shared custody. The mother is the registering parent. The child lives with the mother during school days and with the father on weekends. Both parents request to receive notices of all meetings regarding their child. The mother does not want the father to attend the meetings. Should the mother's request be honored by the school?

Answer:

No. Both parents, custodial and non-custodial, have equal parental rights as to notices and information unless those rights are specifically terminated by a court. Both parents must receive notices as requested. When possible, notices are delivered via e-mail to both parents. If possible, the parents may alternate attending the meetings by electronic means. If both parents attend the meetings in person, ground rules must be established at the outset. The parent who is disruptive will be directed to leave the school and if the directive is not followed, law enforcement will be called to escort him/her out.

13. Both parents registered the child at school many years ago. They are now separated and the child lives with the father in Broward County. The mother moved to Orlando and has requested to withdraw the child in order to register the child in Orlando. The father was notified and he disagrees. He wants the child to remain at BCPS. Should the school honor the mother's request?

Answer:

No. Due to changed circumstances, the child now lives in Broward County with one parent. The parent the child lives with ("custodial" parent) is the decision maker. The other parent (non-custodial parent) may go to court and request the court to resolve their dispute. Until a certified copy of the court order is received, the *status quo* should be maintained.

On the other hand, if the student now resides with the mother in Orlando, and the school receives a request from an Orlando school for records, the school must withdraw the child so that he/she may be enrolled at the new location. Upon inquiry from the father, the school must inform him that the child is withdrawn from BCPS in order to attend school in Orlando. If the father requests the name and address of the school, it should be provided or an explanation on how to obtain it.

14. The Family Court Parenting Plan provides for 50/50 custody. The child lives one week with one parent and the following week with the other parent. Both parents registered the child together and both are very involved in the child's education. The parents disagree on the extra-curricular activities the child should participate in. One parent wants the child to go on a school-sponsored field trip to Boston while the other wants the child to remain at school engaged in academic activities. What should the school do?

Answer:

Because the instructions are conflicting instructions, the school should advise them that the school cannot follow conflicting instructions and may suggest that the Family Court should designate one of them as the final decision maker for educational matters. If time does not permit obtaining a court order prior to the field trip date, the school administrator sits *in loco parentis* (in place of the parent) while the child is at school and engaged in school activities. The field trip is an extension of the school day. The school administrator may decide which activity is in the best interest of the student and follow the parental instruction that is consistent with that determination.

Parental Rights of Adult Student

15. May an 18-year old student register him/herself at a school if he/she is no longer residing with her parents?

Answer:

Most likely yes, but it depends on the facts of the particular case. It is the District's policy to encourage parental involvement when the students are "dependent students" for income tax purposes, as defined in the Internal Revenue Code.

- If the student is no longer residing with the parents because the student has a job and/or is financially independent of his/her parents, the student is not a "dependent student" and may register at the "boundary" school or as re-assigned pursuant to Board Policies.
- If the student was "thrown out" of the house by his/her parents and is living with some friends temporarily, the student may be eligible as an "unaccompanied youth" for the "homeless education" program. The placement decision should be made in consultation with the Homeless Education Program staff available at 754-321- 2574 to ensure compliance with the federal laws.

Parental Contact with Student at School:

16. When a court order prohibits contact between a parent and child but provides for "supervised visitation," should the school allow said parent to pick up the child at school?

Answer:

No. If the court has determined that it is not in the best interest of the child or it is not safe for the child to be alone with said parent, the child must not be released by the school to that parent. Contact the General Counsel's Office for guidance.

17. The parents are divorced and the father has a restraining order against the mother. The court order prohibits contact between the mother and the children but allows for "supervised visitation." Should the school allow the mother to visit the children at school for parent-lunch day?

Answer.

No. The school is not the proper place for "supervised" parental visitation. Note that unless revoked by the court order, the mother's rights to education records and information continue as discussed in question 1 above.

18. The school was provided a certified copy of a *temporary* restraining order ("TRO") prohibiting the father from having contact with his elementary school children until further order of the court. The father comes to the school to pick up the children at

dismissal time during the period when the TRO is in effect. The mother called the school indicating that she is running late, cannot get to the school at dismissal time, but will be there shortly thereafter. Both parents had their own emergency contact card prior. Should the school release the children to the father if the mother is not there at dismissal time?

Answer:

No. The court order prohibiting contact between the father and the children supersedes the emergency contact. If a court has prohibited contact between a parent and his child, the court has determined that it is not in the best interest of the child to have contact with that parent during this period of time. The school may contact the individuals listed in the emergency contact card and may call law enforcement if the father engages in disruptive behavior.

19. The school allows parent-lunch days; the parents are divorced and both request to participate in the parent-lunch-day schedule. Should the school honor both requests?

Answer:

Yes. Under Florida law, the parents have no legal right to have lunch with or visit their child at school. If the school, however, decides to allow parent-lunch days, the school should treat all parents in a uniform and consistent manner. The school may schedule alternating lunch dates between both parents.

Miscellaneous Inquiries

20. The parent notifies the school principal that her child is not to speak with the guidance or trust counselor or any administrator about anything unless the parent is present. Should the school honor the parent's request?

Answer:

No. The school staff must act in the best interest of the student while the child is at school. Theoretically, the child may be in need of counseling or to discuss issues with someone other than a parent.

For further assistance, contact the General Counsel's Office.

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