

CVUSD

Board Policy

BP 5021

Noncustodial Parents

Students

Note: Family Code 3002 defines "joint custody" as joint legal and joint physical custody. Under a joint legal custody arrangement, both parents/guardians share the right and responsibility to make decisions relating to their child's health, education, and welfare. When one parent/guardian has "sole legal custody," then, pursuant to Family Code 3006, only that parent has the right to make such decisions for the child.

The Governing Board recognizes the right of parents/guardians to be involved in the education of their children and desires to balance that right with the district's need to ensure the safety of students while at school.

(cf. 5020 - Parent Rights and Responsibilities)
(cf. 6020 - Parent Involvement)

Note: Education Code 49069 provides that all parents/guardians, regardless of custody, have absolute access to a student's record. However, pursuant to Education Code 49061, a parent without legal custody does not have the right to challenge the content of a student record, provide a written response to the record, or consent to its release to third parties. See AR 5125 - Student Records. Only a parent/guardian as defined in Education Code 56028 is entitled to make educational decisions regarding a student with disabilities; see BP/AR 6159 - Individualized Education Program.

The parent/guardian who enrolls a child in a district school shall be presumed to be the child's custodial parent/guardian and shall be held responsible for the child's welfare.

School officials shall presume that both parents/guardians have equal rights regarding their child, including, but not limited to, picking the student up after school or otherwise removing the student from school, accessing student records, participating in school activities, or visiting the school. When a court order restricts access to the child or to his/her student information, a parent/guardian shall provide a copy of the certified court order to the principal or designee upon enrollment or upon a change in circumstances.

(cf. 3516 - Emergencies and Disaster Preparedness Plan)
(cf. 5111.1 - District Residency)
(cf. 5125 - Student Records)
(cf. 5141 - Health Care and Emergencies)
(cf. 5142 - Safety)
(cf. 6159 - Individualized Education Program)

Note: A court order binds only the parties to the order, not the district or its staff. However, if school officials have been provided a certified copy of such a court order, then they have a responsibility to abide by any terms of the order applicable to situations arising at school. For example, if a court order conflicts with Education Code statutes that give noncustodial parents the right to access student records, the district should seek legal counsel to determine whether the court order or the statutes should prevail. If a court order restricts access to the child, it is recommended that staff contact the custodial parent and local law enforcement officials in the event of an attempted violation of the order. If a court order restricting access to a child is not issued by a California court, staff should consult with legal counsel and local law enforcement officials to determine its validity.

In the event of an attempted violation of a court order that restricts access to a student, the principal or designee shall contact the custodial parent and local law enforcement officials and shall make the student available only after one or both of these parties consent.

Legal Reference:

EDUCATION CODE

48204 Residency requirements

49061 Definitions

49069 Absolute right to access

49091.10-49091.19 Parental review of curriculum and instruction

49408 Emergency information

56028 Definition, parent for special education

51100-51102 Parent/guardian rights

FAMILY CODE

3002 Joint legal custody, definition

3006 Sole legal custody, definition

3025 Parental access to records

6550-6552 Caregivers

GOVERNMENT CODE

810-996.6 Government Claims Act

6205-6211 Confidentiality of residence for victims of domestic violence

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

California Association of Supervisors of Child Welfare and Attendance:

<http://www.cascwa.org>

California Department of Education: <http://www.cde.ca.gov>

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