

POLICY JLIB

Board of Education Las Cruces Public Schools

Related Entries: JLIB-R, JLIBA, JLIBA-R, JRA, JRA-R
Responsible Office: Associate Superintendent for Instruction

CUSTODIAL RIGHTS OF PARENTS/GUARDIANS

I. PURPOSE

To inform the public, parents/guardians, and staff about the custodial rights of parents/guardians when information or action is requested by any person claiming to have custodial rights with regard to any LCPS student.

II. BACKGROUND

The Board of Education recognizes that school district employees, especially secretaries at individual schools, are, upon occasion, asked, 1) to provide individuals with information about custodial and non-custodial parental rights and responsibilities with regard to students enrolled in LCPS; and 2) to act upon completed caregiver's authorization forms and/or power of attorney forms.

III. DEFINITIONS

1. "*Caregiver*" means a relative or non-relative of a child who is responsible for the care and well-being of that child.
2. "*Caregiver's authorization affidavit*" means a document which authorizes a caregiver to enroll a child in public school and to obtain educational and medical services for him or her. The caregiver's authorization affidavit does not give legal custody of the child to the caregiver.
3. "*Custodial rights*" means that a parent or guardian has legal rights and responsibilities for major decisions that concern the welfare of a minor child.
4. "*Court order*" means an order issued by a court of competent jurisdiction that adjudicates the respective rights of the parties involved and/or legally requires a person to do or refrain from doing something specified in the order. A court order relating to custody of a child may award sole custody of the child to one parent, joint custody to both parents or joint custody to both parents with one parent having primary physical custody.
5. "*Parenting plan*" means the part of an official divorce decree that delineates who has legal custody of a child during certain periods of time and/or specifies the rights of the parents regarding the child.

6. “Power of attorney” means a legal document, which gives one person the right to act on behalf of another person.

IV. POSITION

A. Custody

Each parent or court-appointed guardian of an LCPS student shall be presumed to have all the legal rights pertaining to parenthood or full guardianship of that student.

1. In those circumstances in which the child's or children's parents or guardians are legally separated and one of the parents or guardians states that he/she is legally responsible for the child or children and requests that the rights of the other parent or guardian to review the child's or children's records, or to visit or have contact with the child or children at school, be denied, it shall be the obligation of the requesting parent or guardian to provide the principal of the school the student is attending or is designated to attend with a court order delineating the custodial rights of the parties involved and to provide the school principal with the legal basis that he or she asserts grants the right to exclude the other parent or guardian.
2. Each parent or court-appointed guardian of an LCPS student shall be presumed to have all the legal rights pertaining to parenthood or full guardianship of that student. If the parents or guardians are legally separated, it shall be the responsibility of the requesting parent to provide the school principal with relevant court documents delineating custodial rights.
3. The school district will honor state law with regard to parental visitation rights and student records access, but will not allow the school setting to be used by any parent or guardian as a means of parental visitation with a child outside of a parenting plan issued by a court of competent jurisdiction.

B. Student Records

With regard to a custody order issued by a court of competent jurisdiction in New Mexico, the school district will honor the provisions of New Mexico Statutes § 40-4-9.1(H) (1999), as amended or recodified in the future, currently indicating that a parent, even if the other parent has sole custody of the child, cannot be denied access to the education, medical and dental records of his or her child. The New Mexico court must specifically deny such access by means of a court order.

C. Student’s Enrollment

In cases where there is a dispute as to which parent or guardian has legal custody of an LCPS student, that student shall remain enrolled at the school

where he/she is currently enrolled until such time as a parenting plan, court-issued custody order or other appropriate legal documentation has been presented to the school principal which shall designate otherwise or require a change in enrollment.

D. School Environment

The school district has control of its ability to ensure that the school environment is free from disruption and provides an environment conducive to learning for all of its students. Any parent or guardian who becomes disruptive, threatening or intimidating because of a custody dispute may be banned from school property and school activities by the school principal pursuant to § 30-20-13(D) of the New Mexico Statutes, as amended or recodified in the future, and Board Policy KFA.

E. Staff Information

The Superintendent of Schools or his/her designee shall ensure that school district employees are provided with the necessary information and forms so that they are able to:

1. Comply with, as appropriate, requests from the public for information about custodial and non-custodial parent rights and responsibilities with regard to children enrolled in LCPS; and
2. Act appropriately upon completed caregiver's authorization forms and/or power of attorney forms.

F. The Superintendent of Schools shall promulgate a regulation for the enforcement of this policy.

V. **REVIEW AND REPORTING**

This policy will be reviewed in accordance with the Board of Education policy review process.



Board of Education, President

June 21, 2011

Date

Policy History: Formerly Policy 372, revised 04.04.06; revised 06.21.11

Legal Reference: New Mexico Statutes § 40-4-9.1(H) (1999), § 30-20-13(D)