

Procedure

File: KBBA

CONFIDENTIALITY AND ACCESS TO SCHOOL RECORDS FOR NON CUSTODIAL PARENTS

All School Personnel should be aware that student information and records must be treated with strict confidentiality and may only be accessed in the performance of official duties. Additionally, Massachusetts General Law Chapter 71 Section 34H is a state law designed to standardize the process by which public elementary and secondary schools provide students records to parents who do not have physical custody of their children (non-custodial parents). The responsibility for the implementation of this law at the school level is the principal or his/ her designee.

The following persons serving in a parental/primary custodial role shall have access to a student's records:

- The custodial parent(s) (parent with physical custody)
- The student's guardian
- A person or agency legally authorized to act on behalf of or in conjunction with the student's father, mother or guardian, assuming this father, mother or guardian has physical custody.

Non-custodial parents shall not have access to a student's records when:

- the parent has been denied legal custody based on a threat to the safety of the child or the custodial parent
- the parent has been denied visitation or has been ordered to supervised visitation
- the parent's access to the child or to the custodial parent has been restricted by a temporary or permanent protective order, unless the protective order (or any subsequent order modifying the protective order) specifically allows access to the student information described in the statute. Massachusetts General Laws Chapter 71 34H requires the non-custodial parent to submit a written request for access to the student's records to the school principal.

The following procedure must be followed once a school receives a written request for student records from a non-custodial parent:

- The school must immediately inform the custodial parent of the request by certified mail and first class mail, in both the primary language of the custodial parent and in English.
- This notice shall inform the custodial parent that the school will provide the student record information to the requesting parent pursuant to Section 34H after 21 days, unless the custodial parent provides to the school principal documentation of any court order which:
 - prohibits the non-custodial parent from having contact with the child, or only allows supervised visitation with the child,
 - prohibits the distribution of the student record information referred to in Section 34H,

- is a temporary or permanent order issued to provide protection to the custodial parent or any child in the custodial parent's custody from abuse by requesting parent, unless the protective order (or any subsequent order modifying the protective order) specifically allows access to the student record information.

However,

If at any time the principal receives a court order restricting the rights of the non-custodial parent after distribution of the information to the non-custodial parent has begun, the school shall immediately cease to provide this information and shall notify the requesting parent that the distribution of information shall cease.

The type of information eligible parents who have requested student record information utilizing the aforementioned process is entitled to receive includes:

- report cards and progress reports
- results of intelligence tests and achievement tests
- notification of
 - referral for a special needs assessment
 - enrollment in a transitional bilingual education program
 - out-of-school suspensions or long term suspensions
 - permanent withdrawal from school

Additionally, the statute directs schools to make "reasonable efforts" to ensure that other student record information that is provided to the custodial parent, but is not specified on the preceding list, is also provided to the requesting parent if that parent is both eligible under and in compliance with, the provisions of Section 34H.

This information must be modified in two ways before being sent to the non-custodial parent:

1. All electronic and mailing addresses and telephone numbers of the custodial parent shall be removed from the information provided pursuant to Section 34H.
2. The information referred to in Section 34H must be properly and clearly marked, to indicate that the said information may not be used to support the admission of the child to another school.

Note: The statute requires schools to send notice to the custodial parent by certified mail and by first class mail, in both the primary language of the custodial parent and in English.

The law requires the school to provide the non-custodial parent with the student record information

Sample Notice to Parents

Notice to the Custodial Parent that the Non-Custodial Parent Has Requested Student Records

Per General Laws Chapter 71, Section 34H

Note: The statute requires schools to send notice to the custodial parent by certified mail and by first class mail, in both the primary language of the custodial parent and in English.

(Date)

(Name and Address of Custodial Parent)

Dear

Pursuant to Massachusetts General Laws Chapter 71, Section 34H, a law regarding student records access for non-custodial parents, **(Name of Non-Custodial Parent)** has requested the student records of **(Name of Child)**. This request was made on **(Date of Non-Custodial Parent's Request)**. In compliance with Section 34H (c) and (d), I am providing you with written notice of this request.

The law requires the school to provide the non-custodial parent with the student record information after 21 days, unless before that date you provide me with a copy of either of the following documents:

1. A court order that prohibits the non-custodial parent from having contact with your child or requiring only supervised visitation with the child,
OR
2. A court order that prohibits the non-custodial parent from getting access to the students records,
OR
3. A temporary or permanent order issued to provide protection to you or to any child in your custody from abuse by the requesting parent, unless the protective order (or any subsequent order modifying the protective order) specifically allows access to your child's student records.

Please contact my office if you have any questions. Thank you very much.

Sincerely,

Principal

*REQUIREMENTS FOR NON-CUSTODIAL PARENTS
TO ACCESS SCHOOL RECORDS*

**A NON-CUSTODIAL PARENT IS THE PARENT WHO DOES NOT
HAVE PHYSICAL CUSTODY OF HIS/HER CHILD.**

COMPLETED	YES	NO
A. For the non-custodial parent to obtain access to the student's records s(he) must: <ul style="list-style-type: none"> • Submit a written request to the principal 		
B. The school must immediately inform the custodial parent of the request by: <ul style="list-style-type: none"> • certified mail <u>and</u> first class mail <u>and</u> 		
<ul style="list-style-type: none"> • in both the primary language of the custodial parent <u>and</u> in English 		
C. After 21 days, the school provides the student record information unless the custodial parent provides legal documentation to negate this action.		
D. Modify the information sent to the non-custodial parent <ul style="list-style-type: none"> • remove all electronic and mailing addresses and telephone number 		
<ul style="list-style-type: none"> • mark the information to indicate that "This information may not be used to support the admission of (<u>student's name</u>) to another school 		

In addition, you must use the attached transparency overlay to mark all documentation.

If you have any questions, please contact the Office of Instruction and School Leadership at
(508) 799- 3499.