

September, 2017

Dear Parents and Guardians:

From time to time, the Massachusetts Legislature enacts laws which affect school policies and procedures. About four years ago, an amendment to the student records legislation was adopted. While it pertains directly to non-custodial parents (those parents with whom students do not reside at any time), all parents should be aware of Massachusetts General Laws, Chapter 71, Section 34H.

This statute is designed to standardize the process by which public elementary and secondary schools provide copies of records to parents who do not have physical custody of their children (non-custodial parents). If parents live apart but have any kind of “shared physical custody” of the child, Section 34H does not apply, and both parents are presumed to have full access to the child’s student records without going through the procedures set forth in the statute.

Section 34H(b) requires that non-custodial parents who want copies of their children’s student records must submit a written request to the school principal annually. The initial request must include two types of documents:

1. A certified copy of the Probate Court’s order or judgment relative to the custody of the child indicating that the requesting parent:
 - a) has not sought and been denied shared legal custody as defined in Section 31 of Chapter 208 based on a threat to the safety of the child or custodial parent, and
 - b) is entitled to unsupervised visitation with the child,

OR

A certified copy of an order by a Probate and Family Court judge specifically ordering that this information be made available to the parent requesting it. The order must certify on its face that:

- a) it is being made after a review of the records, if any, of the judgment of custody and the criminal history of the petitioner,
- b) provision of the requested information has not been determined to pose a safety risk for the custodial parent or to any child in the custodial parent’s custody, and
- c) it is in the best interest of the child that such information be provided to the petitioner;

AND

2. An affidavit from the non-custodial parent certifying that the judgment or order remains in effect and that no temporary or permanent protective order restricting access to the custodial parent or to any child in the parent's custody is in effect.

Upon receipt of the above information, the school must notify the custodial parent that the requested information will be provided to the requesting parent after 21 days unless the custodial parent provides the principal with any court order which:

- a) prohibits the non-custodial parent from having contact with the child, or
- b) prohibits the distribution of the student record information, or
- c) 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 the requesting parent, unless the protective order (or any subsequent order modifying the protective order) specifically allows access to the student record.

Each year after the initial request, the eligible non-custodial parent must submit a letter to the principal indicating that he or she continues to be entitled to unsupervised visitation with his/her child and to be eligible for receipt of information as set forth above. Upon receipt of an annual request for information under Section 34H, the school must notify the custodial parent, as outlined above.

Before transmitting any record information such as report cards, progress reports, results of intelligence or achievement tests, notifications or referrals for special needs evaluations, absences, or disciplinary actions, the school must remove all address and telephone number information and must mark the information to indicate that it cannot be used to support admission of the child to another school.

While the school does not wish to unduly burden those non-custodial parents who legitimately should have access to the school records for their sons and daughters, the law is very clear as to our obligations with respect to this issue. We appreciate your understanding and cooperation.

Questions regarding this law and our implementation of it may be addressed to the Guidance Department who will oversee the middle school's compliance (Peabody 978-341-2490, x5102, Sanborn 978-341-2490, x6102).

Sincerely,

Justin Cameron, Principal
Concord Middle School

