

Custody Chart

Custody	Education records provide to parent	Parent can make educational decisions	Parent can attend IEP meetings or conferences	Comments
**Parent's rights terminated by court order	<i>No</i>	<i>No</i>	<i>No</i>	<i>Request a current copy of termination order if uncertain; otherwise may assume both parents have rights</i>
Parent with sole legal custody	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>The non custodial parent may still request and receive records</i>
Parents share joint legal custody	<i>Yes – to both parents</i>	<i>Yes – either parent (don't need both to approve decisions)</i>	<i>Yes – either or both may attend (no requirement to have two meetings)</i>	<i>Minn. Stat. §518.17 subd. 3; Minn. Stat. §120A.22 subd.1(no need for 2 conferences)</i>
One parent does not have legal or physical custody, but rights have not been terminated	<i>Yes, upon request</i>	<i>No</i>	<i>Yes</i>	<i>Minn. Stat. §120A.22 subd. 1a; 343 C.F.R. § 99.1.(rights of non-custodial parent to meet & receive records)</i>
Parent(s) have custody but child lives with relative	<i>1. Parent(s). 2. Relative IF parent provides release OR Parent is unavailable & relative "acts as parent"</i>	<i>1. Parents 2. Relative IF parent is unavailable & relative is "acting as the parent"</i>	<i>1. Parent(s) 2. Relative IF" acting as a parent" OR authorized by parent</i>	
Parents never married, custody not determined	<i>Both parents</i>	<i>Either parent may make decisions</i>	<i>Yes – either or both may attend</i>	<i>Law does not require two meetings or conferences</i>

Parents never married, paternity not determined	<i>1. Mother 2. Father if established parent-like relationship</i>	<i>Mother; Father if established parent-like relationship</i>	<i>Mother; Father if established parent-like relationship</i>	
Parents legally separated, custody not determined	<i>Both</i>	<i>Both</i>	<i>Both</i>	
Foster parents	<i>IF they have a release or, court order</i>	<i>For special education purposes, they may make decisions if parent is not available</i>	<i>Yes</i>	<i>A parent or legal guardian should receive special education notices & must approve special ed changes UNLESS foster parent has court order OR is “acting as a parent”</i>
Child legally emancipated from parents	<i>No</i>	<i>No</i>	<i>No</i>	<i>Ask to see current court order if in question</i>
Child over age 18	<i>The pupil may receive records. The parents may not unless child is a dependent or needs special education services</i>	<i>Yes, if dependent child needs surrogate or if guardian appointed. Otherwise rights transfer to student</i>	<i>Yes</i>	<i>Staff may assume that student being cared for by parents (i.e. living with them) is a dependent for tax purposes & parents may receive pupil’s education records</i>
Ward of State	<i>Yes, unless parental rights terminated</i>	<i>Yes</i>	<i>Yes</i>	<i>If parent can’t be located, do not need parent authorization for initial consent</i>

****** Parent means a parent, guardian or person with legal custody or pupil over 18
For special education purposes, for an unmarried student over 18, a “parent” includes a parent, guardian or conservator.

******* This table provides reference to common custody issues. It is not intended to be legal advice but was designed to accompany an in-service presentation. Please consult your attorney with specific questions.