

Step Parents

Generally, a step-parent has the same rights under FERPA as a natural parent where the step-parent is present on a day-to-day basis with the natural parent and child, and the other natural parent is absent from the home. Specifically, the US DOE has provided that:

The term "parent" is defined as including natural parents, a guardian, or an individual acting as a parent in the absence of a parent or a guardian. 34 CFR § 99.3. The Department has determined that a parent is absent if he or she is not present in the day-to-day home environment of the child. Accordingly, a stepparent has rights under FERPA where the stepparent is present on a day-to-day basis with the natural parent and child and the other parent is absent from that home. In such cases, stepparents have the same rights under FERPA as do natural parents. Conversely, a stepparent who is not present on a day-to-day basis in the home of the child does not have rights under FERPA with respect to such child's education records.

Letter to Parent re: Disclosure of Records to Step-parents (August 20, 2004).

An important qualification to the general statement above: these rights are subject to any court order or legal document restricting such rights (even if the step-parent is present with the child on a day-to-day basis).

Specifically, your statement below is correct – in the event that the student's natural parent is absent and the step-parent attempts enrollment, the child will be treated as a homeless student.

Because the analysis relative to a step-parent's ability to act as a "parent" will involve a case-by-case determination of (1) the involvement (or lack thereof) of the other natural parent and (2) any court orders, providing a generalized "checklist" to staff may cause unintended issues. As such, I would recommend that if a situation arises in which a step parent is attempting to act in a parental capacity (i.e. enroll a student, gain access to records, etc.) the protocol should be for the secretary to refer the issue to the building administrator. If you wanted, perhaps we could do a flowchart or decision tree to assist on these issues, that reflects the considerations above.

STEP PARENTS FERPA RIGHTS IN OHIO



Morgan, Stephanie

From: Goggin, Scott
Sent: Monday, October 03, 2016 2:35 PM
To: Morgan, Stephanie
Subject: Step parent flowchart
Attachments: WESTLAKE - Flowchart re Step Parent Rights in Ohio (02199987-2x9EF3B).docx

Stephanie,

Here is the step-parent flowchart. How do you think we should distribute? Can this be worked in to Wednesday? Also, they sent some additional guidance re: enrollment which is below my signature.

Scott Goggin
Superintendent
Westlake City Schools

Good afternoon. I am a colleague of Eric Johnson's and am assisting him with the stepparent FERPA rights guidance issue. Attached is a general flow chart regarding the FERPA rights of stepparents. The focus of the flow chart is FERPA rights and not enrollment/tuition issues. The enrollment issues can be fairly nuanced and they are separate from the FERPA issues so to avoid confusion, we did not include them in the flow chart. More specifically, if you have a stepparent enrollment issue arise, the outcome will depend on the facts at issue. If the natural parent is truly absent, the stepparent can enroll the child as homeless (he/she would be an unaccompanied homeless youth) assuming that there is not shared custody and the other natural parent resides in the District also, in which case you should insist that that parent enrolls. If there is shared custody and the other, non-absent parent resides elsewhere, you would want to know who the child is actually staying with. If it's the stepparent, they should still enroll as homeless. If it's the other natural parent, then that parent should enroll in their district after going to court to change rights so that he/she is the parent with residential rights for school purposes (the enrollment period is 60 days under this scenario and is optional actually). If you have a child of never married parents and no custody documents in place, then the stepparent can enroll the child as homeless if the natural parent is absent.

Please let us know of any questions or if you need anything further.

Thanks,

Christine

Christine T. Cossler