

NON-CUSTODIAL PARENTS' RIGHTS
(General Laws Chapter 71, Section 34H)

As required by G.L. Ch. 71, Sec. 34H, a non-custodial parent may have access to the student record in accordance with law and Department of Education Regulations. The School District will follow the law and the attachments recommended by the Massachusetts Department of Education to standardize the process by which public schools provide student records to parents who do not have physical custody of their children ("non-custodial parents"). The implementation of this policy will hopefully encourage parents to be involved in and informed about the education of their children, while protecting the rights and safety of all parties.

(5) Access Procedures for Non-Custodial Parents. As required by M.G.L. c. 71, § 34H, a non-custodial parent may have access to the student record in accordance with the following provisions.

- (a) A non-custodial parent is eligible to obtain access to the student record unless:
 - 1. the parent has been denied legal custody based on a threat to the safety of the student or to the custodial parent, or
 - 2. the parent has been denied visitation or has been ordered to supervised visitation, or
 - 3. the parent's access to the student 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 information contained in the student record.

- (b) The school shall place in the student's record documents indicating that a non-custodial parent's access to the student's record is limited or restricted pursuant to 603 CMR 23.07(5)(a).

- (c) In order to obtain access, the non-custodial parent must submit a written request for the student record to the school principal.

- (d) Upon receipt of the request the school must immediately notify the custodial parent by certified and first class mail, in English and the primary language of the custodial parent, that it will provide the non-custodial parent with access after 21 days, unless the custodial parent provides the principal with documentation that the non-custodial parent is not eligible to obtain access as set forth in 603 CMR 23.07 (5)(a).

- (e) The school must delete the electronic and postal address and telephone number of the student and custodial parent from student records provided to non-custodial parents. In addition, such records must be marked to indicate that they shall not be used to enroll the student in another school.

- (f) Upon receipt of a court order which prohibits the distribution of information pursuant to

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G.L. c. 71, §34H, the school shall notify the non-custodial parent that it shall cease to provide access to the student record to the non-custodial parent.

Suggested Checklist for Schools Implementing General Laws Chapter 71, Section 34H
(Distribution of Student Records to Eligible Non-Custodial Parents)

Name of Student: _____

Name of Custodial Parent: _____

Name of Requesting Parent: _____

Name of School Staff Member Verifying Information: _____

_____ The requesting parent submitted a written request for the records to the school principal within the past twelve months. Date of request: _____

_____ The initial request included a certified copy of a court order, which met the requirements of Section 34H (b).

_____ The initial request included an affidavit from the requesting parent, which met the requirements of Section 34H(b).

_____ Each school year since the initial request the requesting parent has submitted a request indicating that the parent continues to be:

- a) Entitled to unsupervised visitation with the child; and
- b) Eligible to receive student record information pursuant to Section 34H. Date(s) of annual request(s):

When the school received the records request from the non-custodial parent:

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(f) Upon receipt of a court order which prohibits the distribution of information pursuant to G.L. c. 71, §34H, the school shall notify the non-custodial parent that it shall cease to provide access to the student record to the non-custodial parent.

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- The school is aware that it may seek reimbursement for the cost of postage from the requesting parent.
- The eligible parent has the right of access to the entire student record.

Or

- The otherwise eligible parent's right of access to the entire student record has been specifically limited by court order.

Note limitations, if any: _____

SOURCE: MASC

LEGAL REF.: M.G.L. 71:34H
603 CMR 23.07 (5) Access Procedures for Non-Custodial Parents

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Massachusetts Association of School Committees - 2003