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**CALIFORNIA ASSOCIATION OF  
INDEPENDENT SCHOOLS (CAIS)  
TRUSTEE/SCHOOL HEAD  
CONFERENCE**

**Caught in the Middle? When  
Family Struggles Cause  
School Troubles**

*1/28/2017*

*PRESENTED BY:*

**Donna Williamson & Judith S. Islas**




# Caught in the Middle? When Family Struggles Cause School Troubles

California Association of Independent Schools (CAIS) Trustee/School Head Conference  
Presented by: Judith S. Islas & Donna Williamson | January 28, 2017

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**Caught in the Middle?  
When Family Struggles  
Cause School Troubles**  
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(CAIS) Trustee/School Head Conference  
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**AGENDA**

Common Issues With:

- Divorced Parents
- Custody Disputes
- Estranged Parents
- Substance Abuse
- Physical and Psychological Abuse
- Illness/Job Loss

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**Divorced Parents**

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**DIVORCED PARENTS: Common Issues**

- One parent refuses to sign enrollment agreement, behavior contract, trip waiver, or other legal documents
- Conflicting parent requests
- One parent requests school withhold documents/information from other parent.
- One parent cooperates with school and is constructive, other parent is dysfunctional

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**DIVORCED PARENTS: Enrollment Agreements, Waivers, Etc.**

- Best Practice: **Both** parents should sign to maximize legal protections and reduce conflict.
- Exceptions to both parents signing:
  - Only one living parent.
  - Parental rights of one parent have been terminated.
  - School decides to take a risk on a family.

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**DIVORCED PARENTS: Conflicting Parent Requests**

- Copy both parents on all correspondence.
- Support teachers on what they should handle independently and when to call an administrator.
- Clearly tell parents the school will follow its regular protocols unless a court order directs otherwise.

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**DIVORCED PARENTS: Documents/ Information**

**DOCUMENTS**

- Both custodial and non-custodial parents have broad right to access pupil records.
- Parents' right to pupil records includes:
  - Parent who has/has not signed enrollment agreement.
  - Parent who is estranged from student/other parent.
  - Parent restrained from contact by court order.
- Schools may only deny parent access to pupil records if:
  - Access expressly limited by court order.
  - Parental rights terminated.

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**DIVORCED PARENTS: Documents/ Information**

**INFORMATION**

- Both custodial and non-custodial parents have equal access rights to school/student information
  - On-line parent portal
  - Parent-teacher conferences
  - Attendance at school informational or other events
- If safety concerns notify parent will be disclosing to other parent

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**DIVORCED PARENTS: Restraining Orders**

A restraining order may:

- Order an individual to refrain from certain conduct, such as threatening, stalking, or assault.
- Order an individual to stay a certain distance away from the protected person, his or her home, place of work, and his or her children's schools.
- Be obtained from the court by victim of conduct or an employer.

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**DIVORCED PARENTS: Laws Prohibiting Disruptive Behavior**

- Education Code 44811:
  - Makes it a misdemeanor for any parent, guardian, or other person to materially disrupt class work or extracurricular activities or to create substantial disorder in a place where a school employee is required to be in the course of his or her duties.
- Penal Code 626.4
  - May direct a person to leave campus because person has willfully disrupted the orderly operation of the campus.
  - Applies to all persons.
  - Penalty is misdemeanor.

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**DIVORCED PARENTS: School Policies**

Schools should have procedures or policies in place to:

- Notify parents to provide school custody or restraining orders & any new orders issued.
- Inform appropriate personnel of any court ordered restrictions -to avoid violation of custody or restraining orders/liability.
- Take action to ensure school's compliance with custody or restraining orders.
- Depending on circumstances, contact law enforcement/other parent if violation of restraining order occurs at school.

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**Custody Disputes**

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**CUSTODY DISPUTES: Common Issues**

- Types of custody/custody orders
- Custody orders are not clear
- Custody orders conflict
- Disputes about educational decisions
- Teacher/School asked to submit statement to parent/parent's lawyer in connection with custody dispute

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**CUSTODY DISPUTES: Types of Parental Custody**

- DO NOT TAKE SIDES
- Types of Custody
  - Legal Custody
  - Physical Custody
- Visitation Rights

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**CUSTODY DISPUTES: Types of Custody Orders**

Custody orders can limit/allocate parental rights:

- Time allocated for physical custody by each parent.
- Place other restrictions on terms of physical custody, e.g., drop off and pick up points.
- Parent's ability to make educational and medical decisions for child.
- Parent's obligation to pay school tuition.

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**CUSTODY DISPUTES: Custody Orders**

- Do not rely on parents' or parents' lawyers representations about custody orders
- Schools should request and review custody orders
- Schools should strictly comply with custody orders

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**CUSTODY DISPUTES: When Custody Orders Are Not Clear**

- Make a reasonable interpretation
- Inform parents of the interpretation & action based on interpretation
- Schools can suggest parents obtain clarification of custody orders
- Depending on circumstances, schools may wish to give parents time to seek clarification from the court before implementing an action

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**CUSTODY DISPUTES: Disputes Over Educational Services**

When parents disagree on educational services:

- Review custody order to determine who holds educational rights.
  - Both parents
  - One parent
- If both parents hold educational rights, both parents must agree unless subsequent court order addresses disputed issue or parent's right to decide.

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**CUSTODY DISPUTES: School Involvement In Custody Hearings**

- Do not to agree to parent requests for teacher/administration statements or declarations
- Teachers/administrators not required to & generally should not speak to parents' lawyers
- Parents/lawyers have opportunity to obtain sworn testimony by issuing subpoenas

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**CUSTODY DISPUTES: School Involvement In Custody Hearings**

- Ensure that enrollment agreements and handbooks contain clear language about the requirements for a functional relationship with the school
- Place parents on notice of potential breach of contract when school is drawn into marital and custodial conflict
- School should not be the neutral space for custody exchanges

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**Estranged Parents**

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**ESTRANGED PARENTS: Common Issues**

- One parent has not been in contact with student and other parent in a number of years
- Estranged parent still has legal and physical custody
- Estranged parent requests:
  - pupil records
  - parent-teacher conference
  - access to on-line parent portal
  - access to student at school
  - to chaperone on school field trips

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**ESTRANGED PARENTS: Navigating Common Issues**

- Notify other parent of re-appearance and requests of estranged parent
- Request any court orders that may restrict estranged parent's rights
- If no court orders limit estranged parent's rights, notify other parent of legal obligations and access of estranged parent to requested information & contact

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**ESTRANGED PARENTS: Navigating Common Issues**

- Advise parent to provide school any subsequently issued court orders
- Confirm all of this communication in writing
- Remind parents of contractual requirement to work constructively with the school

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**Substance Abuse & Physical and Psychological Abuse**

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**SUBSTANCE ABUSE: Common Issues**

- Parent shows up intoxicated at School
  - School should not release a student to a parent if the school has a reasonable belief that the parent is intoxicated
  - School should notify other parent
  - Mandated Report?
- One Parent accuses the other of substance abuse
  - School should address safety issues such as student pick-up

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**SUBSTANCE ABUSE: Common Issues**

- School can advise about school counseling services, outside services, e.g. counseling & al-ateen.
- School can ask how else they can support the student.
- Mandated Report?

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**PHYSICAL OR PSYCHOLOGICAL ABUSE: Dealing with Allegations**

- Employee made aware of abuse must make a mandated report when there is reasonable suspicion of child abuse or neglect
  - One parent alleging the other parent is abusive may not be sufficient to constitute reasonable suspicion
  - If mandated report made against parent, do not notify either parent that a mandated report was made
- Do not advise parent filed a mandated report – they are anonymous & school should not waive reporting employee's anonymity
- Do not provide copy of mandated report to either parent

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**PHYSICAL OR PSYCHOLOGICAL ABUSE: Dealing with Allegations**

- Breach of contract issues
  - School must require reasonable conduct from any parent interacting with the school, whether or not they signed the enrollment agreement
  - One parent can cause breach of contract for other parent
  - School can physically bar a parent from the school and school related functions but what about email, the Internet and social media?

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**Illness/Financial Problems**

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**FINANCIAL PROBLEMS: Common Causes**

- Job Loss
- Illness
- Death
- Bankruptcy
- Lawsuits
- Unexpected Costs/Expenses

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**PARENT ILLNESS/FINANCIAL PROBLEMS: Common Issues**

- Inability to pay tuition
  - School can agree to payment plans or reduced obligations, but should be in writing and signed by parents and school – address promptly
  - Timing, do not expect payments after student graduates
  - Consider precedent
  - Consider back-up options

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**PARENT ILLNESS/FINANCIAL PROBLEMS: Common Issues**

- Lack of communication from ill parent
  - School should continue to provide regular communication but reach out to other parent
- New living arrangements due to ill parent
  - School must address legal issues related to waivers, parent-teachers conference, etc.

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**Checklist:**

- Ensure language in enrollment agreements and handbooks provide school with options to address dysfunctional parent issues
- Good documentation of issues and warnings
- Enforce the language
- Ensure teachers are trained and supported
- Copy both parents on all communications (unless restricted)

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**Thank You**

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