

Legally Speaking

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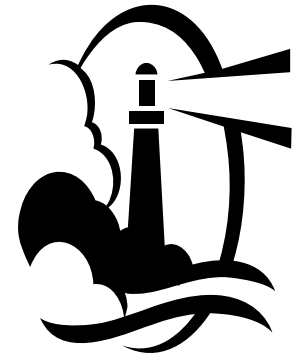
Refresher on Addressing Parental Disputes on Educational Decisions

By Laurie A. Dart, Associate Counsel

Every school encounters situations where one parent or guardian directs the school to do one thing and the other parent or guardian directs something different. The possible scenarios where one parent says yes and the other says no are varied and limited only by our imagination. Examples include a situation where 1) the mother directs that the student attend R-Club after school and the father directs that the student take the bus home; 2) the grandmother with whom the child lives and the father disagree over whether the father should be allowed to visit at lunch, attend parent conferences or pick the student up during school; 3) the father enrolls the student in a magnet program and the mother requests a seat at the school close to her home; or 4) the mother appears at the car circle on Monday afternoon and the stepmother calls to object because the mother's visitation day is Tuesday. While these issues are complicated and always seem to have a new twist, the following principles are helpful in sorting them out.

1. [School Board Policy 5500.01](#) in the Code of Student Conduct establishes a protocol that is helpful in resolving these types of conflicts. The protocol is found in paragraph K:

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Mission Statement

The mission of the Office of General Counsel is to provide the highest quality legal services to the Pinellas County School Board, the superintendent and the district by ensuring timely and accurate legal advice and effective representation on all legal matters.

Did you know ...

On Aug. 15, 2011, a new School Board policy took effect that limits employees' communications with students via private electronic media such as Facebook, MySpace, Twitter and private cell phone texts. The policy is intended not only to protect the confidentiality and proper retention of student records and ensure the safekeeping of public records, but also to protect employees from potentially unwarranted charges of inappropriate behavior. The new policy (1213.01, 3213.01, and 4213.01) can be found on our School Board Policy Manual homepage under the "Leadership" tab on the district's homepage, www.pcsb.org. A FAQ on the new policy can be found at [Office of General Counsel homepage](#), and a video with further information that was previously shared with principals can be viewed at mms://video.pinellas.k12.fl.us/WPDS-SocialMediaPolicy. ■

Religion in the Schools: Common Issues for Teachers and Administrators

By James A. Robinson, General Counsel

The purpose of this article is to give teachers and administrators a quick summary of common issues involving religion in the public school setting. Each issue is touched on only briefly, and you should seek legal advice from the Office of General Counsel if you are uncertain how to properly handle a particular situation.

Student Prayers—Students may pray individually or in groups, read their bibles or discuss their religious views with their peers so long as they are not disruptive.

Students may initiate prayer at graduation. Faculty may not.

Official Participation or Encouragement of Religious Activity—Teachers and school administrators are representatives of the state, and are prohibited from encouraging or soliciting student religious or anti-religious activity, or from engaging in religious activities with their students. However, teachers may engage in private religious activity in teacher lounges.

Teaching About Religion—School Boards may allow students to be taught about religion, but public schools may not teach religion itself. See Section 1003.45, F.S.

Student Assignments and Religion—Students may express their religious beliefs in reports, homework and artwork. Such expressions are constitutionally protected. Teachers may not reject or correct such submissions simply because they include a religious symbol or address religious themes.

Religious or anti-religious remarks made in the ordinary course of classroom discussion or student presentations are permissible and constitute protected speech.

Distribution of Religious Literature—Students have the right to distribute religious literature to classmates, subject to those reasonable time, place and manner or other constitutionally-acceptable restrictions imposed on the distribution of all non-school literature. Thus, a school may confine distribution of all literature to a particular table at particular times. It may not single out religious literature for extra regulation. Distribution of materials and literature to students is governed by [Board Policy 9701](#).

"See You at the Pole"—Student participation in before or after-school events, such as "see you at the pole," is permissible. School officials, acting in an official capacity, may neither discourage nor encourage participation in such an event.

Religious Persuasion Versus Religious Harassment—Students have the right to speak to, and attempt to persuade, their peers about religious topics just as they do with regard to political topics. But school officials should intercede if persuasion turns into religious harassment aimed at a student or a small group of students.

Equal Access Act—Student religious clubs in secondary schools must be allowed to meet in campus facilities and have equal access to campus media to announce their meetings, if the school permits any student non-curricular club to meet during non-instructional time and announce their meetings. This is required by the Equal Access Act. A non-curricular club is any club not related directly to a subject taught or soon-to-be taught in the school. See [School Board Policy 5730](#).

Religious Holidays—Public schools may teach about religious holidays, and may celebrate the secular aspects of the holiday. They may not

observe the holidays as religious events.

Excusal From Religiously-Objectionable Lessons—Schools may excuse individual students from lessons which are objectionable to the student or to his or her parent on the basis of religion.

Teaching Values—Schools may teach civic virtues, including honesty, good citizenship, sportsmanship, courage, respect for the rights and freedoms of others, respect for persons and their property, civility, the dual virtues of moral conviction and tolerance and hard work. However, these may not be taught as religious tenets. In fact, school districts in FL may require student recitation of a daily conduct pledge. See Section 1003.31(4), F.S.

Student Garb—Religious messages on T-shirts and the like may not be singled out for suppression. Students may wear religious attire, such as yarmulkes and head scarves, and may not be forced to wear gym clothes that they regard, on religious grounds, as immodest.

Release Time—Schools may release students during the school day for off-campus religious instruction, provided that schools do not encourage or discourage participation or penalize those who do not attend. Schools may not allow religious instruction by outsiders on premises during the school day. Absence for religious worship or holiday is allowed with [School Board Policy 5223](#). ■

Can a Parent Bring Another Adult to a School Meeting?

By David Koperski, Associate Counsel

We often receive calls and e-mails asking for advice in situations where a parent is accompanied by another adult when they arrive at school for a meeting with school personnel, whether the meeting is a parent-teacher conference, IEP meeting, discipline meeting or some other meeting. Sometimes the other adult is a lawyer representing the parent or student, while in other cases the person is the parent's family member, neighbor or friend. In short, Florida law allows parents to bring another adult to any school meeting, but there are some protocols we can insist upon in certain situations.

The law states that "[p]arents of public school students may be accompanied by another adult of their choice at any meeting with school district personnel." See Section 1002.20 (21), F.S. So, as a general rule, parents may bring any other adult to a school meeting. The law does not specifically allow the other adult to take an active role in the meeting, but we recommend that they be allowed to reasonably give their input so long as they do not dominate the meeting. The meeting is supposed to be between the parent and the school personnel. The other adult is present only to "accompany" the parent. If the other adult is dominating the meeting, or if they become rude or disruptive, the school personnel should remind the parent of the other adult's role and the need to redirect the meeting back to the issues between the school and the parent. If the disruption continues, you can



end the meeting and seek to reschedule it. In these extreme cases, we recommend you contact our office for further guidance.

In addition, in order to protect the legal interests of the District and its staff, we recommend schools contact our office if the parents bring a lawyer to a school meeting. Many times, the school will know in advance whether the parent intends to bring a lawyer. In those cases, preparations can be made ahead of the meeting, such as scheduling attendance by one of us, either in person or by phone, and/or pre-meeting conversations between the parent's lawyer and one of us, which may defuse some of the issues concerning the parent and school staff. If a parent arrives at a meeting with a lawyer and the school did not know they were bringing one, we recommend you immediately contact our office for guidance. Depending upon the specific circumstance, we may attend by phone right on the spot, ad-

vice that the school may proceed without our attendance if the staff feels comfortable or, in highly contentious cases, advise that the school reschedule the meeting to a date that one of us could attend in person. In these latter cases, you may simply advise the parent that you were unaware they were bringing legal counsel and you wish to include yours.

Schools should not refuse to allow parents to bring another adult to a school meeting. In fact, Florida law grants parents that right. Neither should school staff be concerned about this other person hearing confidential student information – the parent is essentially consenting to the release of this information by inviting the other adult to the meeting. However, the presence of the person cannot be disruptive and, in the case of parents bringing a lawyer, schools have the right to contact our office for advice before proceeding with the meeting. ■



Quote:

Success is to be measured not so much by the position that one has reached in life as by the obstacles which he has overcome while trying to succeed.

Booker T. Washington

April 5, 1856—November 14, 1915

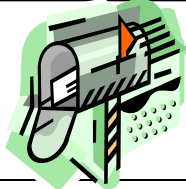
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Parent Refresher

(Continued from page 1)

In the event that the school receives conflicting direction from divorced or separated parents concerning a student, the school may rely on the direction of the parent identified by the following criteria, which are listed in order of priority:

- First, the parent who is designated in a parenting plan or other Florida court order as having either educational decision-making authority or sole parental responsibility over the student; or
 - Second, if both parents are designated as educational decision-makers with shared parental responsibility, the parent who resides at the address specified in the parenting plan or other Florida court order as the address to be used for school assignment purposes; or
 - Third, if no such parenting plan or order exists or no such address is specified, the parent who resides at the address used by the District for student assignment purposes; or if this address cannot be ascertained, the parent who enrolled the student.
2. The School Board is not a party to the parents' divorce decree or any incorporated visitation

schedule. We expect each parent to abide by their respective obligations in a court order but the School Board does not monitor or otherwise enforce the order.

3. The definition of parent under Section 1000.21, F.S. and incorporated in School Board Policy, means "either or both parents of a student, any guardian of a student, any person in a parental relationship to a student or any person exercising supervisory authority over a student in place of the parent."
4. Each parent has the right to participate fully in the educational process unless a court order specifically terminates parental rights. Subject to the "conflict rules" described above, each parent can and should be involved without reference to where the child resides.
5. Section 1001.43(1) (c), Florida Statutes, authorizes the School Board to determine the procedures and policies to be followed regarding the release of a student from school which the district has done in policies [5500.01](#) and [5230](#) in establishing the above protocol.

These general principles can be applied to most situations which you encounter. For example, in the first hypothetical situation described above where you are asked to choose between the mother's directive to send the student to R-Club and the father's directive to send the student home on the bus, you would send the student to R-Club at the direction of the mother if the mother had sole decision making authority, if the court order or parenting plan designated her address for student assignment purposes, or if no such order or parenting plan, she enrolled the student.

In the second scenario where the grandmother directed you to restrict the father's involvement with the student at school, you would decline to do so unless his parental rights were terminated or there is an injunction or a no contact order. You would, however, defer to the grandmother on her instructions not to let the father remove the child from school during the day because the child resides with her.

In the third scenario involving the student's enrollment in a magnet program, you would hope that the parents jointly agreed to a program in the best interests of the student. If they could not agree, however, you would fall back on the protocol set forth in [Policy 5500.01](#).

In the final scenario, you do not need to worry about the parents' visitation schedule. Unless there is an injunction or no contact order, the mother may pick the student up at the car line. The father and stepmother can take appropriate steps to require the mother to abide by the visitation schedule but the school should not become embroiled in that exercise.

The Office of General Counsel is always available to help you with situations that arise on a daily basis. ■