

## 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

