

What is “legal custody”?

Parents are often confused by the term “legal custody.” It is important to understand exactly what this term means. Legal custody is sometimes called “decision making custody.” It gives you the right to decide the child’s upbringing, like choosing schools, making major medical decisions, and choosing religious training. The courts often give joint legal custody, which means that you and the other parent have the same rights to make the major decisions in your child’s life. Legal custody is different from the courts deciding who the child should live with (physical custody) and what time the noncustodial parent spends with the child (parenting time).

If either party asks for joint legal custody, then the court will usually give joint legal custody to both parents. This is because the court thinks that joint legal custody is the best for the child. But, the court will not order joint legal custody if either parent can prove that it is not in the best interests of the child. Also, the court usually will not order joint legal custody if there has been domestic abuse between the parents.

If the parents do not agree on sharing joint legal custody, the court must consider 4 factors to decide if joint legal custody should be ordered. These are in addition to the 13 “best interests factors” listed on page 14. These factors are:

- If the parents can work together in raising their children and,
- The ways for settling arguments with any major decision with the life of the child, and whether the parents are willing to use those ways and,
- If it would be harmful to the child if one parent were to have all the control over the child’s life and,
- If domestic abuse has happened between the parents.

If I thought I got legal custody when I signed the Recognition of Parentage (ROP)?

No. Signing the ROP does not give you any legal rights to your child – including legal custody – but it is the starting point for you to go to court to ask for legal rights. In order for you to get joint legal custody, you must file a **Motion to Establish Custody and Parenting Time**.

If I don’t have legal custody, can I still know what is going on with my child?

Yes. Even if one parent has sole legal custody, both parents have the right to be told about the child’s schooling, health care and so on. Both parents can go to school conferences, have access to the child’s medical records, and have reasonable phone contact with the child. These rights are contained in a court notice called **APPENDIX A**. APPENDIX A is supposed to be attached to all family court orders, including child support orders. A copy of APPENDIX A is in the back of this guide (page 45). This notice tells you of many rights, not just your rights to get information about your child. Every parent should read this notice carefully.

The only time the rights in APPENDIX A are not true is if the court restricts these rights in your court order.