

Family Law

Legal Custody of Minor Children



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Q: I was just awarded primary physical custody over my 10 year old daughter and given joint legal custody with my ex-husband. What does physical custody mean?

A: Primary physical custody means that the child primarily resides with you and is supervised by you, subject to your ex-husband's rights of visitation with your daughter. However, primary physical custody does not mean that you have the sole decision making power regarding matters affecting the child. That discussion is left for legal custody.

Q: What is the difference between physical custody and legal custody?

A: Physical custody is exactly that: the physical time period that the child resides with you or visits with you. Legal custody, by contrast, involves the

decisions regarding the health, safety and welfare of the minor child.

Q: Can you give me some examples of what you mean in legal custody cases involving the decisions of the health, safety and welfare of the minor child.

A: Decisions that have to be made involving legal custody include enrollment of a minor child or termination of the minor child in a particular private or public school; beginning or ending the regular practice of a religion for the minor child; commencement of psychiatric, psychological, or other such mental health counseling or therapy for the minor child; authorizing the minor's driving license; change of the minor child's principal residence; passport applications for the minor child; enrollment in regular occurring extra curricu-

lar activities for the minor child; and non-emergency medical/dental treatment other than routine checkups for the minor child.

Q: The court just granted my ex-husband and I joint legal custody of our 10 year old daughter. What does joint legal custody mean?

A: Joint legal custody means that both parents share the right and responsibility to make decisions regarding the child's health, education and welfare. For example, if there is a pediatrician to obtain for the minor child, the parents make this decision together. Further, if there is a parent-teacher night then both parents should be able to attend. Each parent should have access to the minor child's report cards and school schedule. Moreover, if the child is going to church Sunday or Hebrew school, the parents cooperate in choosing which Sunday school or Hebrew school to attend.

Q: My ex-wife and I were granted joint legal custody over our 5 year old son who is now in 1st grade. However, my ex-wife is very uncooperative in terms of this joint legal custody issue. Also, all the judgment of divorce says is that we are granted joint legal custody. I cannot get report cards sent to me, I cannot see the child's teacher and I do

not know who our child's doctor is. What can I do?

A: It sounds like decision making issues are a bone of contention between yourself and your ex-wife. It is necessary for you to go back into court in a post judgment modification of custody in terms of the legal custody issues. Your new court order in terms of legal custody should delineate or spell out specifically the matters as to which both parents' consent is required. You need to have spelled out your rights as to report cards, parent teacher conferences, the addresses and telephone numbers of the child's school, the names of the teachers, and the names and addresses of the child's doctors. Any matter not so specified could be subject to unilateral decision making by your ex-spouse and may be the cause of future problems between both parents.

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