

Custody Disputes and Your Liability Protection

written by CPH Insurance | June 16, 2016

Custody disputes are sticky areas for childcare providers, who are legally responsible for children left in their care and are obligated to release them only to certain people: parents or a legal guardian or anyone authorized in writing by the parent who has physical custody.

Sometimes, however, someone will come to pick up a child who has no legal authority or authorization to do so. To protect themselves and the child, childcare providers must have a written policy at hand mandating that the child be released only to the child's custodial parents or to a person authorized by the custodial

parent. Names, addresses, and telephone numbers of anyone authorized by the parent to visit the child or take the child from the program should be obtained before or at the time of the child's enrollment and updated as often as necessary.

There are all sorts of situations the provider must prepare for:

- What if the authorized person is delayed in picking up the child?
- What if someone different comes to pick up the child and the parents cannot be reached?

These areas should be covered in rules governing your establishment to ensure that everyone knows beforehand what is allowable and what is not. The policy should also contain procedures for checking the identification of authorized individuals who are unfamiliar to staff, such as requiring a photo I.D. or a note signed by the parent.

But how do you tell who has custody of the child?

When the parents are married and not separated, both parents have equal custody. But there are other situations in which a provider must determine who has the authority to pick up a child or make decisions about a child's care.

You should ask to see a copy of any court order confirming the custody arrangement; such orders will specify who is to pick the child up from day care as well as who has legal custody to make decisions about a child's care. Find out if there are any protective or restraining orders and if there are, request copies for your file.

Basically, if you know there have been court proceedings or any legal dispute determining custody of a child, get it in writing. Ask parents during the initial interview what would happen should custody

problems occur and explain what you need in order to do your job.

Child custody is probably one of the most problematic of situations for childcare providers – ask questions and receive information up front – that way you can head off legal issues and problems with lawsuits in the future.