

On The Alert!

Date:	December 20, 2017
Attention:	ASCIP Members
Affected Department(s):	Risk Management, Administration, Teachers, Staff
Applicability:	K-12 and Charter Schools

IN LOCO PARENTIS AND DISTRICT RISK

Recently, ASCIP received an inquiry about the term “In loco parentis” and if districts need written protocols for compliance.

The term “*In loco parentis*” means “in the place of the parent.” Parents, in effect, deputized schools to have the powers of discipline, “restraint and correction” as is necessary to educate their children. The modern analogy is that districts stand *in loco parentis* and assume the custody of students and, at the same time, students are deprived of the protection of their parents such that districts act in the place of the parent or instead of the parent—*in loco parentis*.

School districts must develop student codes of conduct which districts have the right to enforce.

Over time, *in loco parentis* has metamorphosed from being a right of restraint and coercion used to discipline students to being a duty of District officials to protect students. In California, Education Code Section 44807, in part, states “*Every teacher in the public schools shall hold pupils to a strict account for their conduct on the way to and from school, on the playgrounds, or during recess. A teacher, vice principal, principal, or any other certificated employee of a school district, shall not be subject to criminal prosecution or criminal penalties for the exercise, during the performance of his duties, of the same degree of physical control over a pupil that a parent would be legally privileged to exercise but which in no event shall exceed the amount of physical control reasonably necessary to maintain order, protect property, or protect the health and safety of pupils, or to maintain proper and appropriate conditions conducive to learning.*”

Some situations involving this concept can be challenging. For example, **what if a student needs medical transport from a school to a hospital for treatment and a parent/guardian cannot be contacted?** (1) Generally, the minor student cannot legally consent to treatment nor legally refuse it. (2) Because the District stands *in loco parentis*, the District should designate an employee familiar with the child to accompany the child and, if necessary, to authorize medical treatment. Note that any time an EMS crew encounters a minor who has a life-threatening illness or injury, the crew will initiate care under the principle of implied consent. In non-life-threatening situations, however, consent of a parent or legal guardian—in this case, the District *in loco parentis*—is required to begin medical care for a minor. (3) Districts can also consider having parents execute powers of attorney which permit Districts to consent to medical care for that child under specified circumstances when they are unavailable. (4) The case of emancipated minors presents another confusing situation. Refusal of medical care for an emancipated child by himself or herself where the child's condition is not life threatening is allowable. (5) Other specific medical treatment consent conditions involving minors are described in the attached table of [CALIFORNIA MINOR CONSENT AND CONFIDENTIALITY LAWS](#) from the National Center for Youth Law.

Please contact your ASCIP risk services consultant at (562) 404-8029 to discuss further.