

LEGAL CUSTODY OF CHILDREN

Background

Custody disputes between parents or other family members may be complicated by the fact that legal custody of the child has not been assigned. In such cases, de facto custody lies with the parent with whom the child lives.

While it is preferable to avoid becoming involved in a custody dispute, the protection and best interest of the child must be the major factor in a Principal's decision whether or not to release a student to a person claiming custody.

Students who are the subjects of custody claims are not to be released from school until the normal morning or afternoon dismissal time.

Procedures

1. All claims for the custody of students must be referred to the Principal.
2. Where there is a demand for access to a student and legal custody is uncertain, the Principal shall
 - 2.1 Ask the claimant to identify themselves and produce a legal order or a notarized statement for custody.
 - 2.2 Inform the claimant that the student will not be released from school until the normal morning or afternoon dismissal time; and that the parent with whom the student lives will be informed that the claim for access has been made.
 - 2.3 Notify the parent with whom the student lives that the claim for access has been made and bring agreement as to whom the student will be released.
 - 2.4 Attempt to bring the two (2) parties to agreement as to whom the student will be released. A school social worker or RCMP officer may be called upon for assistance in the mediating role.
 - 2.5 If the parent with whom the student lives cannot be contacted and thus the two (2) parties cannot be brought together, then the parents may seek the assistance of the school social worker in making temporary arrangements for the child's care.
3. A record shall be kept in the school of any custody claims which may be received, including dates, times, names and demeanour of persons involved, and as much of their actual statements as it may be possible to record.
4. When deemed necessary, the Superintendent shall be informed by the Principal of all demands for custody which they may receive.
5. Any request for access to a student or information (e.g. student report cards, etc.) about a student from a parent with whom the student does not live shall be referred to the Principal. Such information may be released to an individual with parental rights. An individual who is

a parent of a child and for whom there is no court documentation restricting access to the child is assumed to have parental rights.

6. Principals are to use their discretion in dealing with such requests, bearing in mind that a court order restricting the access of a parent to their child applies while the child is in school or on school property.
7. A social worker may to be consulted for advice and assistance in dealing with such requests.
 - 7.1 The District must provide a copy of the student report card(s), including the attendance record(s), upon request from a parent who has been accorded custody rights or visitation rights in a legal divorce action.
 - 7.2 Both parents have the right of access to the student report card(s) and/or the parent conference(s) if custody or visitation rights have been accorded to them by a separation agreement or an order of a court.
 - 7.3 If there is a question as to the legal rights of either party, the parent or guardian must present a copy of the separation agreement or an order of a court.
 - 7.4 Any requests made to teachers by parents or other outside agencies for verbal or written statements regarding student progress, welfare, behaviour, etc., are to be referred to the Principal.
 - 7.5 Non-custodial parents, who request access to their children's student records claiming authority pursuant to a court order made under the Divorce Act, are to be handled in the following manner:
 - 7.5.1 The parent who has the court order must present a copy of the court order to the Principal. The Principal is to take a copy of the court order.
 - 7.5.2 The parent requesting the access rights is to be told that the custodial parent will be informed of the request.
 - 7.5.3 If the custodial parent has no subsequent legal documents that challenge the release of this information, the Principal is to provide the student records to the access parent making the request, pursuant to the court order.
 - 7.5.4 Information to be released would be that contained in the child's report card.
 - 7.5.5 If there is a dispute between the two parents, the school is not to become involved. That is a matter for their lawyers or the parents to personally resolve amongst themselves.
 - 7.6 The school must always deal with the custodial parent.

Approved: January 2019

Reference: Section 1, 2, 16.2, 18, 20, 23, 45, 45.1, 60, 61, 113 School Act
Student Records Regulation 225/2006
Child, Youth and Family Enhancement Act
Domestic Relations Act
Canadian Charter of Rights and Freedoms
Divorce Act
Family Law Act