

CUSTODY OF CHILDREN

Background

The best interests and rights of the child must be paramount when responding to individuals who wish to gain access to children via the schools or to obtain information regarding students within the system.

Procedures

Custodial Rights

Married Parents

1. If the parents of a child are legally married they are considered joint guardians. Therefore, married parents possess equal custodial rights in all matters regarding the child.

Unmarried Parents

2. If the parents of a child are not married, the mother is deemed, pursuant to the provisions of the Domestic Relations Act, to be the sole guardian of the minor. (In limited situations, the court may by order grant specific access rights to the putative father)

Separated or Divorced Parents

3.
 - 3.1 It is the responsibility of the custodial parent, or guardian to register the child. Copies must be provided of any agreements or court orders that deal with the child.
 - 3.1 Staff members shall avoid involvement in custody disputes. As a result, they shall not choose between parents or take sides with a parent. Every effort is to be made to ensure that staff members are not used as a tool by one parent against the other.

Foster Parents and Child Welfare Act Situations

4. If the child is subject to a court order or agreement pursuant to the Child Welfare Act, as a result of the determination that the child is in need of protection, the foster parent or guardian appointed pursuant to the order or agreement stands in the place of the parents. In such a situation, the provisions of the court order govern.

Custody Claim, Access Request

1. All claims by those other than the legal guardian for custody or access to students must be referred to the Principal.
2. The Principal, upon receiving such a request, shall:
 - 1.1 Ask the claimant to provide identification and, if necessary, produce a court order or agreement regarding custody or access;
 - 1.2 Notify the legal guardian of the claimant's request;

- 1.3 If the legal guardian cannot be contacted, then the student should be notified of the situation and detained at the school until satisfactory arrangements can be made to ensure the student's safety under the circumstances;

Reviewing Student Records:

1. Any request to review student records must be referred to the Principal.
2. The Principal shall:
 - 2.1 Ask for identification and, if necessary, a copy of the applicable court order, or agreement.
 - 2.2 Advise that the Superintendent, or designate, shall respond to the request as soon as possible.
2. The Superintendent, or designate, shall review the court order, or agreement, and the student's file to determine whether the information requested is to be provided.
3. The School Act does not authorize any person to make copies of the student records.

Limitations:

The School Act provides that the right to review student records may be limited by the Division if reasonable in each circumstance. The limitation may encompass all aspects of the right to review, for example, time, date and content.

Non-Custodial Parents Attending School Functions:

1. Division schools may host a number of public functions, which may include concerts and sports events. In keeping with the public nature of these events, both parents are entitled to attend, without discrimination, all public school events on the basis of Section 15 of the Canadian Charter of Rights and Freedoms (guarantee of equality) unless there are court orders to the contrary.

Reference: Section 23, School Act
Child Welfare Act
Domestic Relations Act
Section 15, Canadian Charter of Rights and Freedoms