

LEGAL CUSTODY OF CHILDREN

Background

Custody disputes between parents or other family members will 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/guardian 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 custody of a student and legal custody is uncertain, the Principal will:
 - 2.1 Ask the claimant to identify himself/herself 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/guardian with whom the student lives will be informed that the claim for custody has been made.
 - 2.3 Notify the parent/guardian with whom the student lives that the claim for custody has been made.
 - 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/guardian with whom the student lives cannot be contacted and thus the two (2) parties cannot be brought together, then the parents/guardians may seek the assistance of the social worker in making temporary arrangements for the child's care.
3. A record will be kept in the school of any custody claims which will be received, including dates, times, names and demeanour of persons involved, and as much of their actual statements as it will be possible to record.
4. When deemed necessary, the Superintendent will be informed by the Principal of all demands for custody which he/she will receive.

5. Any request for access to a student or information (e.g. student report cards, etc.) about a student from a parent/guardian with whom the student does not live will be referred to the Principal. Such information will 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 his/her child applies while the child is in school or on school property.
7. A social worker may be consulted for advice and assistance in dealing with such requests.

Reference: Section 1, 2, 18, 20, 23, 45, 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