

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 custody of a student and legal custody is uncertain, the Principal shall:
 - 2.1 Ask the claimant to identify themselves and produce a court order or judicial statement.
 - 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 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 police 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/guardians 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 Safe Schools Coordinator shall be informed by the Principal of all demands for custody which they may receive.
5. Visiting of Children by Estranged Parents

- 5.1 When a parent who is separated from their spouse and does not have custody of the child(ren), requests a visit with the child(ren) during school hours, the Principal will contact the custodial parent and obtain their consent.
 - 5.2 If the custodial parent refuses permission, or cannot be contacted, the parent requesting the visit will be so informed and the visit refused.
 - 5.3 If consent is obtained, the visit will take place in such a manner that abduction of the child(ren) will not be possible at any time.
6. Notwithstanding individual situations, court orders must be followed.

Reference: Sections 7, 9, 17, 20, 22, 65, 79, 85 School Act
Child, Youth and Family Enhancement Act
Divorce Act
Family Relations Act
Freedom of Information and Protection of Privacy Act
Canadian Charter of Rights and Freedoms

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