

## Administrative Procedure 322

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### LEGAL CUSTODY OF CHILDREN

#### Background

Family structures and guardian of children and youth can be complicated by the fact that parental responsibilities or parental arrangements have not been determined. Subject to Court Orders or agreements between the parents, the protection and best interest of the child shall guide the principal in access disputes between parents.

The most recent copy of a Court Order or a Parenting Agreement shall be placed in the student's file. Any court documents which have a clear expiry date must be removed from the file (once they have expired) and destroyed.

Both parents maintain equal access rights and responsibilities unless parenting time or parenting responsibility is otherwise stipulated by a Court Order or a Parenting Agreement.

Volunteering in a general school capacity is not considered parental access or parenting time, unless stipulated in a Court Order or a Parenting Agreement.

#### Definitions

##### Family Law Act

Legislation governing parental rights and access in British Columbia.

##### Parent

A parent or person who has guardianship of the student, unless under an agreement or order under the [Family Law Act](#) that person does not have parental responsibilities in relation to the student's education; or a person who usually has the care and control of the student.

##### Guardian

A parent by birth, Court Order, in a will made in accordance with the Wills Act or adoption. When a child's parents live together, both parents are the child's guardians (have guardianship). When the parents separate, both parents continue to be guardians unless they agree to change this, or a court orders a change. A court can give guardianship of a child to a non-parent. Guardians are responsible for making all major decisions about their child, including education, health care, cultural or religious upbringing, and where the child will live (or attend school).

##### Parenting Responsibility

The responsibilities guardians have for the children in their care, including decisions about daily care, education, religious upbringing, extracurricular activities, etc. After separation or divorce, guardians can share parental responsibilities as outlined by a Court Order or a Parenting Agreement.

#### Parenting Time

The time that a guardian spends with a child and is responsible for the care and supervision of the child.

#### Parenting Agreement

The arrangements made for parenting responsibilities and parenting time in a court order or agreement between guardians. Parenting agreements may include specify contact with a child or decision-making responsibilities.

#### Court Order

An official proclamation by a judge (or panel of judges) that defines the legal relationships between the parties.

### **Procedures**

1. All claims for the custody of students must be referred to the principal.
2. The principal will ask if there is a Court Order or a Parenting Agreement.
  - 2.1 If a Court Order or a Parenting Agreement is available, the principal will ensure that all decisions in this document are followed.
  - 2.2 If there is no Court Order or a Parenting Agreement, the principal shall advise both parties that under the Family Law Act both parties are considered parents and will share parental responsibilities. In the case of a dispute, parents will be advised that they need to resolve any issues as the principal will not intervene.
  - 2.3 All information relating to the student's education will be provided to both parties including the non-custodial parents unless there is a court order advising otherwise.
  - 2.4 If parents cannot agree on custodial rights and/or educational matters, the principal should consult with the District Principal for Student Support Services and/or the Assistant Superintendent.
3. School staff shall not become involved in private family matters which includes writing letters or giving statements on behalf of one parent over the other. The expectation of the School District is that all staff shall remain neutral in any custodial dispute.
4. Each parent should have the expectation that all conversations with staff will not be discussed with the other parent.
5. A record shall be kept in the school of any custody claims which may be received, including dates, times, names and demeanor of persons involved, and as much of their actual statements as it may be possible to record.
6. Contact with children by non-custodial parents.

- 6.1 When a parent who is separated from his/her spouse, and does not have custody of the child(ren), requests to see the child(ren) during school hours or attempts to have the child(ren) released from school, the principal will contact the custodial parent and obtain his/her consent.
- 6.2 If the custodial parent refuses permission, or cannot be contacted, the parent making the requesting the visit will be so informed and the request refused.

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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