

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 by the court. In such cases, de facto custody lies with the parent/guardian with whom the child lives during the school week. In cases where joint custody exists this should be clearly articulated in the court document on file.

Parents/guardians are responsible to ensure the school is provided with the latest court documentation.

It is necessary to avoid becoming involved in a custody dispute, and 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. Principals shall abide by court documents provided to them.

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

Please refer to Appendix A.

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 himself/herself and produce a legal order or a notarized statement for custody. The Principal shall retain a copy of this, and refer to any other legal documents in the possession of the school. The most recent document shall be followed. A letter from a legal firm does not constitute a legal document in respect to this matter. The document must be a court document/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 normally lives during the school week will be informed that the claim for custody has been made.
 - 2.3 A social worker or RCMP officer may be contacted for advice and assistance in determining whether or not to release a child to a specific individual where a dispute arises.
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 (or designate) shall be informed by the Principal of all demands for custody which s/he may 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 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 his/her child applies while the child is in school, on school property, or involved in any school sanctioned event.

Reference: Relevant Legislation & Guidelines

Administrative Procedure 322 – Appendix A

Custody Protocol

In Foothills School Division, we are committed to providing positive, safe and caring learning environments for our students. We sympathize with families that are coping with separation or divorce, including custody and child access disputes, however, for the benefit of all our students and staff, it is important for families to understand:

1. Foothills School Division personnel will maintain a position of neutrality with respect to outcomes in custody or access disputes. Accordingly, FSD employees are unable to provide letters of opinion or support, comply with interview requests from lawyers or other professionals, or voluntarily testify for one parent against the other or as a neutral party.
2. In the absence of a current Court Order or Agreement pursuant to a statute governing custody of a child, our schools are legally obligated to allow both parents/guardians an equal opportunity to make decisions regarding their child's education. A copy of the most current Order/Agreement must be provided by the parents/guardians to the school Principal and shall be kept on the student's record.
3. If a custodial parent refuses to provide the school with a copy of the most recent Court Order/Agreement, our schools are required by law to provide both parents/guardians with equal access to information and decision-making authority regarding a student's education.

For more information, please contact the school principal or Division Office at 403-652-3001