

## **CUSTODY ISSUES**

### **Background**

Access disputes between parents or other family members may be complicated by the fact that legal custody of the child has not been determined by a court or by formal agreement. In such cases, de facto custody lies with the parent with whom the child resides.

While it is preferable to avoid becoming involved in an access dispute, the protection and best interests of the child must be the major factor in the decision whether or not to release a student to a person claiming custody.

School officials and staff members shall be diligent in allowing only authorized persons access to students in their care.

### **Procedures**

1. No person except the parent or legal guardian of the student, law enforcement officers or child welfare workers shall be permitted to interview a student on school premises.
2. When authorized persons find it necessary to visit a school to access a child, they shall report to the office of the principal, provide appropriate identification of themselves and make known the purpose of their visit.
1. All claims for the access to students must be referred to the principal.
2. Where there is a demand for access to a student and legal custody is uncertain, the principal shall:
  - 4.1 Ask the claimant to provide appropriate identification and to provide a copy of a separation agreement, or an order of a court, giving him/her access to the student;
  - 4.2 Inform the claimant the student will not be released from the school until the normal morning or afternoon dismissal time and the parent or guardian with whom the student resides will be informed that the claim for access has been made;
  - 4.3 Notify the parent or guardian with whom the student resides that the claim for access has been made;
  - 4.4 Attempt to have the two parties agree as to whom the student will be released. If agreement cannot be reached, the principal may call the police to mediate the dispute.
5. If the parent or guardian with whom the student resides cannot be contacted and thus, the two parties cannot be brought together, the principal may seek the assistance of the police to make temporary arrangements for the child's care.

6. An objective record shall be kept in the school of all such access claims which may be received, including dates, times, names of persons involved and as much of their actual statements as it may be possible to record.

Reference: Section 1,2,11,32,33,52,53,56,196,197,222 Education Act  
Student Records Regulation 71/99  
Child Welfare Act  
Domestic Relations Act  
Canadian Charter of Rights and Freedoms