



BOARD POLICY	
<i>Policy Section</i> FOI/RECORDS MANAGEMENT	<i>Policy Number</i> 302
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POLICY TITLE

Custody and Access to Students by Parents/Guardians

1.0 PURPOSE

The Peterborough Victoria Northumberland and Clarington Catholic District School Board is committed to ensuring the safety of students and that the custody and access rights of parents/guardians of students enrolled at school are exercised in accordance with legal custody and access arrangements. Both parents shall have equal entitlement to the custody of and access to their child at school unless a written Separation Agreement or Court Order to the contrary has been provided by either parent. The Board realizes that its prime responsibility is to the child, and the following Policy and Administrative Procedure, although rooted in a legal framework, focuses on ensuring that the child's welfare is paramount.

2.0 POLICY

It is the policy of the Peterborough Victoria Northumberland and Clarington Catholic District School Board to ensure that the custody and access rights of parents/guardians of students enrolled at school to the extent exercised through the schools are done so in accordance with legal custody and access arrangements.

3.0 GUIDELINES

- 3.1 The Board shall follow the provisions of the *Children's Law Reform Act*, the *Family Law Act*, the *Divorce Act*, and the *Child and Family Services Act* in matters relating to custody and access of students by parents/guardians.
- 3.2 The Board shall support the decisions of the courts and, in individual matters relating to custody and access pertaining to a student, where those decisions are on file in the school.

- 3.3 The Board shall be subject to the provisions of the *Education Act*, Section 305, and Ontario Regulation 474/00, Access to School Premises.
- 3.4 If the event of a situation that is not covered in 3.1, 3.2, or 3.3 above, the principal shall act in the best interests of student safety.
- 3.5 The Board shall deal with student custody issues sensitively and openly in a way that respects the rights of the child and both parents.
- 3.6 If a parent or both parents have access to their child, then the parent or both parents have access to information regarding the child. This includes information contained in the student's Ontario Student Record (OSR).
- 3.7 If both parents are living together, or separate and apart but under the same roof, both parents shall have equal rights to direct and be involved with all aspects of their child's education, subject to a Separation Agreement or a Court Order.
- 3.8 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 situations where the mother and father are living separate and apart and there is no specific Separation Agreement or Court Order, instructions from the parent with whom the child lives shall be respected. The parents shall be advised that these instructions shall only temporarily be followed and that a Separation Agreement or Court Order must be obtained.
- 3.9 Where the mother and father are living separate and apart and there is a Separation Agreement or Court Order that has been produced by the parent, the Separation Agreement or Court Order shall be respected.
- 3.10 Where the mother and father are living separate and apart and there is a Separation Agreement or Court Order, but there is no mention in the Separation Agreement or Court Order of access, the principal may request that the parents return to court and have the Separation Agreement amended and such terms placed therein or have the terms regarding access placed in the Court Order.
- 3.11 While it is preferable to avoid becoming involved in a custody dispute, the protection and best interests of the child shall be the major factor in a principal's decision whether or not to release a student to the person asking for custody of the child at a given time.

- 3.12 A record shall be kept in the school of any custody claims which may be received that are not outlined in the Separation Agreement or Court Order.
- 3.13 If a court has issued a restraining order, it shall be followed by the principal and school staff to prevent a restrained parent from contacting a child at school. A “no-contact” order restricts the restrained parent from making direct or indirect contact with his or her child. Violations of “no abuse”, “no contact”, and “stay away” provisions of a restraining order are criminal offences, and law enforcement officials shall be contacted if the order is being breached at a school.

4.0 TERMS AND DEFINITIONS

4.1 CUSTODY

Custody refers to the rights and responsibilities of a parent in respect of a child, including the right to physical access and the right to make decisions with respect to the child’s health, education, and welfare, in the best interests of the child.

4.2 LEGAL CUSTODY

The parent with legal custody can make all decisions regarding the health, welfare, and education of the child.

4.3 PHYSICAL CUSTODY

Physical custody determines which parent has the actual, physical right to be with the child and to have the child with him or her.

4.4 SOLE LEGAL CUSTODY

One parent is awarded sole legal custody; that parent makes all decision regarding the health, education, and welfare of the child (and the other parent has no input on these decisions).

4.5 SOLE PHYSICAL CUSTODY

One parent is given sole physical custody; the child remains with him or her and the other parent is excluded from having physical custody of the child (for example, when the other parent has neglected or abused the child).

4.6 JOINT LEGAL CUSTODY

Both parents participate in reaching decisions regarding the health, education, and welfare of the child.

4.7 JOINT PHYSICAL CUSTODY

Both parents have the ability to be with the child. Typically joint physical custody is coupled with a parenting plan to determine who will be with the child at what particular time.

4.8 ONTARIO STUDENT RECORD (OSR)

The OSR is the record of a student's educational progress through schools in Ontario. The *Education Act* requires that the principal of a school collect information "for inclusion in a record in respect of each pupil enrolled in the school and to establish, maintain, retain, transfer and dispose of the record". The *Education Act* also regulates access to an OSR and states that the OSR is "privileged for the information and use of supervisory officers and the principal and teachers of the school for the improvement of instruction" of the student. Each student and the parent(s) of a student who is not an adult (that is, a student who is under the age of 18) must be made aware of the purpose and content of, and have access to, all of the information contained in the OSR.

4.9 SHARED CUSTODY

Shared custody is where both parents equally share the legal and physical custody of the child. This is typically found only where both parents are able to resolve their personal differences and keep them in check for the sake of raising the child in a caring, nurturing environment.

4.10 GUARDIAN

Guardian is defined as a person, other than a parent, who has lawful custody of a child, as established by Court Order.

4.11 ACCESS

Access includes the right to visit with and be visited by the child and the same right as a custodial parent to make inquiries and to be given information as to the health, education, and welfare of the child, subject to any restrictions or conditions on those rights which are contained in a Separation Agreement or Court Order.

4.12 CUSTODIAL PARENT

The custodial parent is the term that is used for the parent who has primary physical custody of a child. Typically, the child resides with the custodial parent. Often the child is either with the custodial parent or the non-custodial parent, but not both. This arrangement comes about as a result of the separation of the parents and both parents maintaining separate residences. The child resides with the custodial parent most of the time and the non-custodial parent spends time with the child during periods of child access or visitation. This way, both parents are able to spend time with the child, despite having separate residences.

4.13 NON-CUSTODIAL PARENT

The term non-custodial parent is used for the parent who has the child for a lesser amount of time. Typically, the child does not reside with the non-custodial parent except during the time that the non-custodial parent exercises his or her access or visitation rights with the child.

4.14 RESTRAINING ORDER

A restraining order is a Court Order issued to protect a person from being molested, annoyed, or harassed by another person. A person can get a restraining order to protect himself or herself or his or her child. The person seeking the order must show the court that the person he or she wants the restraining order against has molested, annoyed, or harassed him or her or his or her child. The order is not limited to situations of physical or sexual abuse. Rather, such an order may issue in a variety of situations involving persistent and harassing or distressing behaviour in the context of a custody and access dispute. It is also required that the person against whom the order is sought be or be made a party to custody and access litigation. This typically means that the person claiming the order and the person against whom the order is sought are related in that they:

- are currently married or used to be married to each other;
- have lived together;
- have had a serious, intimate relationship;
- have a child together; and/or
- are related by blood or marriage.

5.0 REFERENCES/RELATED DOCUMENTS

Education Act, R.S.O. 1990, c.E.2, Section 305
Ontario Regulation 474/00, Access to School Premises
Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990,
c.M.56
Children's Law Reform Act, R.S.O. 1990, c.C.12, as amended
Family Law Act, R.S.O. 1990, c.F.3, as amended
Child and Family Services Act, R.S.O. 1990, c.C.11, as amended
Divorce Act, R.S.O. 1985 (2nd Supp.), c.3, as amended
Restraining Order Checklists - Appendices A and B

6.0 RELATED POLICIES

Policy 303, Parental/Guardian Access to Student Information
Policy 304, Ontario Student Record (OSR)

7.0 RELATED FORMS**8.0 APPROVED BY BOARD**

March 24, 2009

9.0 EFFECTIVE DATE

March 24, 2009

10.0 POLICY REVIEW DATE

March 2014

11.0 REVIEW BY

Communication Services