



Peterborough Victoria  
Northumberland and Clarington  
Catholic District School Board

<b>ADMINISTRATIVE PROCEDURES</b>	
<i>Administrative Procedure Section</i> <b>FOI/RECORDS MANAGEMENT</b>	<i>Policy Number</i> <b>303</b>
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## **ADMINISTRATIVE PROCEDURE TITLE**

Parental/Guardian Access to Student Information

### **1.0 ADMINISTRATIVE PROCEDURE**

- 1.1 Principals will maintain student records in accordance with Ontario Regulation 271.
- 1.2 Unless a written Separation Agreement or Court Order to the contrary has been provided by either parent, both parents are equally entitled to access information about their child. More particularly, either parent, independently, may exercise the rights and accept the responsibilities of a parent with respect to the child.
- 1.3 As indicated in the definition of access, a parent with a right of access to a child is entitled to request and to be provided with information regarding his or her child's education, health, and welfare. Conversely, a parent without a right of access is not entitled to such information.
- 1.4 The equal entitlement of both parents to access information about their child may be altered by the fact of the parents living separate and apart, by a written Separation Agreement between the parents, or by Court Order. Either parent may provide the Separation Agreement or Court Order that identifies the legal custody and access arrangements.
- 1.5 The access to information rights of a parent, regardless of whether or not the child lives with that parent, may be varied or denied only by written Separation Agreement or Court Order.
- 1.6 In response to a request for access to information about a child from a non-custodial parent, the principal will provide access based on the provisions of the written Separation Agreement or Court Order contained in the Ontario Student Record (OSR), and in consideration of the safety and best interests of the child.

- 1.7 Where there is a demand made of the principal or school for information about a student and legal custody is uncertain, the principal will:
- ask the claimant to identify himself or herself and to produce a legal order for custody;
  - inform the claimant that information about the student will not be released from the school, and the parent/guardian with whom the student lives will be informed that a demand for information has been made; and
  - inform the parent/guardian that the terms set out in the provisions of a written Separation Agreement or Court Order enforced by the Ontario Family Court Division is taken very seriously by the Board and, by law, we must and will abide by them.
- 1.8 Where a parent/guardian seeks to exercise access to information rights which have been terminated or denied by Separation Agreement or Court Order, the principal will not allow access. The principal will take reasonable steps to prevent unauthorized access to information about a student by his or her parent/guardian, including, where necessary, contacting the police for assistance and intervention.
- 1.9 The principal and school have the right to control access to information. However, if a parent/guardian insists on access to information about the child during school hours when access has been denied by a Separation Agreement, Court Order, or Judgment, the principal will:
- (a) inform the requesting parent/guardian of the Board's policy;
  - (b) inform the requesting parent/guardian that the school has a copy of the Court Order or Judgment refusing access to information;
  - (c) suggest to the parent/guardian requesting access to information that he or she consult with his or her solicitors;
  - (d) inform the requesting parent/guardian that, should the parent/guardian force the issue, the principal will call the custodial parent/guardian and the police;
  - (e) inform the requesting parent/guardian that the school may seek legal advice and that absent a further Court Order varying the existing order or an Agreement amending the existing Separation Agreement, that the school must comply with the existing Separation Agreement or Court Order; and
  - (f) follow the advice of the police and the school Board's legal counsel and the direction of the courts.

- 1.10 The legal rights granted to a guardian with respect to the custody of a child may only be varied by a Court Order.
- 1.11 It is the parent's/guardian's responsibility to notify the school with respect to any changes to access to information rights and to provide the principal with a copy of the most recent applicable Separation Agreement or Court Order at the earliest opportunity. Documentation affecting access to information rights of parents/guardians with respect to their child will be retained in the OSR.
- 1.12 Where significant concerns are present, the principal will not provide access to information until such time as direction is received from the superintendent of schools and/or legal counsel.
- 1.13 Any staff member asked to provide information or testimony to a parent/guardian's lawyer about the school or the child's education for legal purposes will refer the matter to the principal.
- 1.14 Requests for parent-teacher interviews by the non-custodial parent/guardian will be arranged by the teacher. Generally, there will be one parent-teacher interview per child scheduled during the reporting period to which both parents/guardians will be invited. Alternate arrangements must be discussed with the teacher and the principal.
- 1.15 A step-parent or common law partner will have no right to access information about a student unless the step-parent or common law partner has become an adoptive parent or access is provided for in a written Court Order.
- 1.16 A student who is over the age of 16 years and under the age of 18 years, and eligible for student welfare through the Ontario Works program, is deemed an independent student. Parent/guardian access to the student's information will only be permitted if the student provides written consent.
- 1.17 Psychological reports will be retained and processed in concurrence with Ontario Regulation and the College of Psychology of Ontario.
- 1.18 Written psychological reports produced by Board-employed psychology staff will remain the property of the School Board.
- 1.19 The results of the psychological assessment in both written report and in verbal consultation will be shared with school personnel (e.g., principal, resource teachers, teacher).

- 1.20 At the request of the student when he or she is an adult, or at the request of a parent or the legal guardian when the student is a minor, a copy of the original psychological report, or summary thereof, will be released to said parent, guardian, or student only by the psychology staff.
- 1.21 Under the direction of the Director of Education or the appropriate supervisory officer, the Board's psychology staff are the only persons authorized to release the psychological report or the summary thereof.
- 1.22 Appointments with a Board psychology staff will be made to assist parents and students when reviewing psychological reports.
- 1.23 An original copy of the psychological report will be filed in the Board's Special Education Services department file.
- 1.24 In accordance with Ministry of Education Regulations, psychological reports written by members of the Board's Psychological Services staff will be placed in the Ontario Student Record (OSR).
- 1.25 Third-party psychological and psychiatric reports sent to the Board will not be placed in the OSR. These reports will be shared with appropriate school personnel; however, they will be stored in a confidential Special Education Services file at the Board Office. An insert will be placed in the OSR which states that information exists and is being retained in Special Education Services at the Board Office.
- 1.26 Third-party reports released directly to a school by a parent/guardian must either be placed in the OSR or sent to the Board's Special Education Services department for placement in a confidential file depending upon the parent's/guardian's wishes.
- 1.27 Requests for third-party psychological reports made by school personnel will ensure release to the psychological services staff assigned to the school.
- 1.28 Upon transfer of a student within the Board's area schools, Board psychological reports will remain in the OSR.
- 1.29 When a student transfers outside the Board, principals are required to remove and forward psychological reports to the Board's Special Education Services department for placement in a confidential file. These reports may be released outside of the Board by psychology staff upon receipt of written parental permission.

## 2.0 TERMS AND DEFINITIONS

### 2.1 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.

### 2.2 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.

### 2.3 LEGAL CUSTODY

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

### 2.4 PHYSICAL CUSTODY

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

### 2.5 SOLE LEGAL CUSTODY

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

### 2.6 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).

## 2.7 JOINT LEGAL CUSTODY

Joint legal custody is where both parents participate in reaching decisions regarding the health, education, and welfare of the child.

## 2.8 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.

## 2.9 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.

## 2.10 PARENT

A parent is the lawful and natural father or mother of a person. The word does not mean grandparent or ancestor, but can include an adoptive parent.

## 2.11 GUARDIAN

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

## 2.12 FOSTER PARENT

A foster parent is a person who acts as parent and guardian for a child in place of the child's natural parents but without legally adopting the child.

## 2.13 STEP-PARENT

A step-parent is the spouse of a child's parent by a subsequent marriage.

#### 2.14 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 visitation. This way, both parents are able to spend time with the child despite having separate residences. If both parents have access to the child, they, therefore, both have access to the information about their child.

#### 2.15 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 visitation right with the child.

#### 2.16 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.

### 3.0 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  
Ministry of Education, OSR Guidelines

#### **4.0 RELATED ADMINISTRATIVE PROCEDURES**

AP-FOI-305, Records and Information Management  
AP-FOI-307, Ontario Student Record (OSR)  
AP-FOI-308, Municipal Freedom of Information and Protection of Privacy

#### **5.0 RELATED FORMS**

#### **6.0 ADMINISTRATIVE PROCEDURE REVIEW DATE**

October 2015

#### **7.0 APPROVED BY BOARD**

October 26, 2010

#### **8.0 EFFECTIVE DATE**

October 26, 2010

#### **9.0 REVIEW BY**

Communication Services

#### **10.0 LAST REVISION DATE**