



Family Law/Custody/Child Access

In June 1996 changes to the Family Law Act removed the terms "custody", guardianship", and "access". The law, which has replaced it, reinforces the concept of parental responsibility continuing, despite separation and divorce of parents, unless changed by Court Order. It aims to remove the winner and loser notions that went with "custody" and "access".

Instead of custody orders the Court can now make "residence" orders with or without "specific issues" orders, and instead of access orders, there are "contact" orders.

Any Court Order made under the Family Law Act must be carefully examined to understand just what rights and responsibilities are conferred on each parent. This is highly confidential information that is accessed only by the Principal. If there are children in your class involved in family disputes, discuss the situation with the Principal to gain an understanding of the issues involved.

Regulations

1. The school takes instructions from the parent (or parents) who enrol(s) the student.
2. The instructions taken from the enrolling parent/parents relate to the student's educational development, safety and welfare.
3. If the parents are separated and no Court Order has been made about contact, the school cannot deny contact to either parent. If the school is concerned about the contact being sought by the non-enrolling parent, the school should inform the enrolling parent.
4. If a parent claims to have rights in relation to a student to the exclusion of the other parent, the school should sight the Court Order.
5. A parent who only has a Residence Order (i.e. an Order that provides that the child is to live with that parent) cannot instruct the school to deny the other parent access to:
 - a. Student's teachers to discuss matters pertaining to the student's educational progress; or
 - b. Copies of the student's standard school reports etc. unless a Court Order containing such additional directives can be produced. Court Orders of this type are seldom issued.
6. For those children who are subject to a custody order (pre-June 1996), the school cannot allow a non-custodial parent access to the student at school either in person or by telephone. For those children who are the subject of a residence order alone, the school cannot deny the non-resident parent access to the student at school. It would be up to the resident parent in those circumstances, if dissatisfied about the access being given to the child, to obtain Court Orders to prevent the other parent attending at the school. In these circumstances the school, if concerned about the situation, should immediately advise the enrolling parent.
7. The school has a responsibility to maintain a watchful eye over children and to challenge and report to enrolling parents and/or police any unauthorised or abnormal movements of children away from the school.
8. When the school is in doubt regarding the parent and seek clarification as to the details of any Court Orders. (*BCEC Administrative Handbook: 220.3 Family Law Disputes About Children*)

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