



Administrative Policy and Procedures Child Custody Arrangements

Original Document 1 of 3	Approval Date 2022	Review Date n/a
Contact Person/Department Principal	Identification AP3003	Area of Focus: School Operations

Rationale

InnovOak Private School is not immune to family custodial issues, and at times, are drawn into custody issues. Families will, at times, attempt to circumvent established rules and protocols under the guise of certain understandings or beliefs about rights within the context of our community. This practice can lead to behaviors which run contrary to legislation and are harmful to the community.

The school must do what it can to not get involved with custody issues unless the safety of the child is at risk and this policy endeavors to set the protocols to ensure the safety of the child and establish clear lines for the parents/guardians.

This Policy stands alongside the *Trespass to School Property Policy*, *Visitors to School Property Policy*, *Child Welfare Policy*, *Ontario Student Record Policy*, and *Privacy Policy*. Other policies that may need to be consulted include *Lockdown Policy*, *Bomb Threats Policy*, and *Violence Policy*.

Definitions

Child custody is the language used to define both the legal and the real-world relationship between a parent and their child at a time of separation and/or divorce. The word custody essentially refers to the parent’s right to make decisions for the child, as well as the parent’s obligations to that child. Issues concerning child custody can be one of the most important challenges during a divorce. The parent with custody has the right to make important decisions about education, medical care and religion. Full custody includes all the rights and responsibilities normally associated with parents and stepparents in respect to the child(ren) unless otherwise specified in court documentation.

There are different types of custody arrangements:¹

- Joint custody means that each of the parents shares custody of the child. This form of custody works for parents who can collaborate constructively for the best concern of the children. Ontario has two types of joint custody:
 - Joint legal custody means that both parents are involved in major decisions for the children, though matters concerning visitation and dwelling can vary substantially.

- Joint physical custody or shared custody means that each parent spends at least 40 percent of the time with the children.
- Sole custody means that one parent has custody of the children and the children live with that parent. The other parent may or may not have access or rights to visitation.
- Split custody means that one parent has custody of some of the children, while the other parent has custody of the other children. This scenario might occur when teens or pre-teens choose to live with the parent of their choice.²

Access rights grant a parent who has no custody the right to obtain information concerning the education, health and welfare of his or her child(ren) while at school.

De facto parent is not an official custody status, but a term used to describe a situation where one of the parents is absent or is, in effect, not available or involved in custody matters. There is no separation or divorce agreement. The de facto parent has full custody on a temporary basis with the consent, implied consent or acquiescence of the other until such time as the custody relationship is defined by court agreement.

Restraining order is a family court order that limits what a person can do in any way that the court thinks is appropriate. The order might limit where a person can go, or who they can contact or communicate with. It is primarily implemented when the safety of a parent and the child(ren) is at risk. There needs to be reasonable grounds for such an order, and it can either be permanent or temporary.

Custody Policy

InnovOak acknowledges that custodial issues arising from separation and divorce impact children while at School as well as the parents' interaction with the School. The School is committed to caring for each student regardless of custody situations, and therefore cannot take sides in custody and will not get involved disputes unless there is an obvious concern regarding student safety.

The Principal is responsible for implementation of this Policy and its protocol, and for any communication with or between agencies, lawyers or officials. No other staff member should be involved at any time unless designated by the Principal or required by law.

Parents must disclose at the time of enrollment if there are custody arrangements involving their children and/or disclose as soon as practicable if situations develop thereafter. The *Custody Information Form* must be completed. Parents must provide proof of custody arrangements by means of court documents when one parent has been given access rights only or has sole custody, or when restraining orders exist. New court documentation must be submitted every time there is a change in arrangements. The School will respect a valid and current court order concerning custody arrangements, access rights and restraining orders.

Failure by parent(s) to submit appropriate documentation absolves the school of any further obligation, responsibility or liability concerning requirements outside the normal requirements of the school to any parent.

The School requires a statement from the de facto parent of temporary arrangements and will recognize the absent parent as the access parent.

The School will not honour informal or unofficial custody arrangements between separated parents and cannot be held responsible for any requested custody arrangement unless it has been provided the court documents.

Unless ordered otherwise by the court, the School's understands that:

- (a) a person entitled to custody has all the rights and responsibilities of a parent in respect to the person of the child and must exercise those rights and responsibilities in the best interests of the child;
- (b) the entitlement of access to a child includes the right to visit and be visited by the child, and the same right as a parent to make inquiries and be given information about the health, education and welfare of the child; and
- (c) where the parents of a child live separate and apart and the child lives with one of them with the consent, implied consent or acquiescence of the other of them, the right of the other to exercise the entitlement of custody and the incidents of custody, but not the entitlement to access, is suspended until a separation agreement or order otherwise provides.

Any teacher involved with a student who is in a contentious custody situation should ask for and receive from the Principal explicit direction on procedures to follow for any release of such student, and for the sharing of any information related to the student's progress.

The teacher or any staff member may not release information concerning the student that is in the OSR.

Request for information in the OSR must be directed in writing to the Principal. Other than disclosing information that has already been disclosed (e.g., report card, IEP), the Principal is not obligated to release or copy information immediately and has the right to withhold notes, documents or other information pertaining to the student and compiled by staff, save and except as mandated by OSR legislation, other applicable legislation, or court order.