

Subject: Release of Students and Access to Student Information
Effective: September 7, 2004
Revised:

1.0 PURPOSE

This policy will help schools handle requests for access to student information and the physical release of students when child custody is a factor.

2.0 APPLICATION

This policy applies to all public schools in the Province of New Brunswick.

3.0 DEFINITIONS

Access Parent is the parent who does not have custody of his/her child (non-custodial), yet has access, either by court order or by agreement of the custodial parent. Access orders can range from being highly restrictive as to hours and location of access, to non-restrictive where parents determine access schedules among themselves. Non-restrictive access orders are normally described as "reasonable access". In rare cases, access may be completely prohibited.

Authorized Person refers to any person authorized in writing by the custodial parent, the access parent or the legal authority of the Province. The authority granted cannot exceed the authority held by the custodial or access parent as the case may be. Authority may therefore range from permission to pick up the child, sign forms on behalf of the parent, or assume decision-making on behalf of the parent.

Child refers to a person who is under 19 years of age or may refer to an exceptional student who is the subject of a custody order.

Child in care refers to a child who is permanently or temporarily in the care of the Minister of Family and Community Services. In most cases children in care are placed in foster or group homes.

Court order/prohibition order are used interchangeably in this policy to refer to a court document which prohibits a specified individual to contact a particular student.

Custodial Parent refers to the parent who has day-to-day care and control of a child, as defined by a court order or agreement. In the school context, the parent(s) with custody (the custodial parent) has the right to make decisions about the student's education, participation in excursions, sports and other similar school activities. The custodial parent should sign any permission/waiver forms that need to be signed and provide notes to cover absences. In cases of joint custody, there may be two custodial parents with this authority.

ORIGINAL SIGNED BY

MINISTER

Guardian, as defined in the *Education Act*, includes a person who has received into the person's home and has had placed under the person's care and control another person's child but does not, for the purpose of subsection 9(1), include a person who, in the opinion of the superintendent concerned, has done so solely for the purpose of allowing that child to attend school in another school district. Parent includes guardian.

Non-Custodial Parent is the parent who does not have custody of his/her child and may or may not have access to his/her child.

Student record is any information about a student, whether it is kept by the school, district or Department of Education, recorded in any form, and contained in a computerized or manual records system which is structured in such a way that information about specified individuals can be easily recovered.

4.0 LEGAL AUTHORITY

Education Act, sections:

6 The Minister

(a) shall establish educational goals and standards and service goals and standards for public education in each of the education sectors established under subsection 4(1), ...

13(1) In support of the learning success of his or her child and the learning environment at the school, a parent is expected to

- (a) encourage his or her child to attend to assigned homework,
- (b) communicate reasonably with school personnel employed at the school his or her child attends as required in the best interests of the child,
- (c) cause his or her child to attend school as required by this Act,
- (d) ensure the basic needs of his or her child are met, and
- (e) have due care for the conduct of his or her child at school and while on the way to and from school.

13(2) The parent of a pupil has a right to reasonable consultation with the pupil's teacher or the principal of the school the pupil attends with respect to the education of the pupil.

13(3) It is the responsibility of the parent of a pupil and of school personnel to conduct themselves in a respectful manner and to follow established procedures when involved in communications concerning the pupil.

14(2) It is the right of a pupil to be informed of his or her educational progress on a regular basis.

22(1) Where a person creates or attempts to create a disturbance in or on school property while being used for school purposes, a teacher may exclude that person from the school property.

22(2) Where under subsection (1) a teacher attempts to exclude a person from school property and that person refuses to immediately leave the school property that person commits an offence punishable under Part II of the [Provincial Offences Procedure Act](#) as a category C offence.

22(3) Where a person, in or on school property,

(a) uses threatening or abusive language, or

(b) speaks or acts in such a way as to impair the maintenance of order and discipline in or on the school property,

that person commits an offence punishable under Part II of the [Provincial Offences Procedure Act](#) as a category C offence.

27(1) The duties of a teacher employed in a school include ... (e) attending to the health and well-being of each pupil.

54(1) Subject to subsections (1.1) and (3), the parent of a pupil or a pupil is entitled to access to pupil records maintained in respect of the pupil.

54(1.1) Where a pupil has attained the age of nineteen years, a parent of the pupil is not entitled to access any record maintained in respect of the pupil without the consent of the pupil.

54(2) Where a person is given access to a record in accordance with subsection (1), the superintendent concerned shall, where the superintendent believes it is necessary, explain or interpret the information disclosed on the record.

54(3) Where the superintendent concerned believes that access to a record maintained in respect of a pupil would be detrimental to the well-being or future development of or the educational opportunities for the pupil, the superintendent may

(a) deny access to the record, and

(b) where the superintendent believes it is appropriate, describe or interpret such of the content of the record the knowledge of which, in the opinion of the superintendent, would not be detrimental to the well-being or future development of or the educational opportunities for the pupil.

[Divorce Act](#), section:

16(5) Unless the court orders otherwise, a spouse who is granted access to a child of the marriage has the right to make inquiries, and to be given information, as to the health, education and welfare of the child.

5.0 GOALS / PRINCIPLES

- 5.1 The Department of Education considers the educational development of every student in a safe and secure environment to be paramount. Custody disputes, access to student information, and the release of students must be dealt with in a manner that does not compromise the safety of students or the learning environment.
- 5.2 Parents have the responsibility to provide their child's school with any information that would reasonably be required to keep their child safe.
- 5.3 The Department of Education recognizes the right of all parents to receive information about their child's education, in the absence of court-imposed restrictions.

6.0 REQUIREMENTS / STANDARDS

6.1 General

- 6.1.1 Principals shall ensure appropriate school staff are aware of, and respect the right of access parents, to be provided with information about their children's education, as set out in subsection 6.3.2 of this policy.
- 6.1.2 Access to a student record, subject to section 54 of the [Education Act](#), includes access by an access parent.
- 6.1.3 When parents do not maintain a common residence, school personnel must take reasonable care not to disclose information about one parent to the other, unless consent for information sharing has been received. For example, home address, phone number and place of work may not be disclosed.
- 6.1.4 When there is a breach of a prohibition order, the custodial parent (or foster parent), the police, or the child's social worker, as appropriate, shall be notified.
- 6.1.5 When, in the opinion of the principal, the conduct of parents or others is such that the child's learning and/or well-being are affected, or the learning environment generally is disrupted, the principal may set reasonable limits regarding the parents' interactions with the school.

6.2 Custodial Parents

- 6.2.1 As early as practicable in the school year, the principal shall ensure that custodial parents are informed, in writing, that:
 - a) schools are required by this policy, to provide information and access to non-custodial parents unless the custodial parent can demonstrate that the non-custodial parent has no right or his/her rights are restricted; and
 - b) in the event a prohibition order is in place, the responsibility rests with the custodial parent to provide the school with a copy of the appropriate

document. The custodial parent shall also complete the *Denial of Access* form ([Appendix A](#)), and notify the school of any variations or revocation of the court order. The completed *Denial of Access* ([Appendix A](#)) form shall be kept in the student's cumulative record folder. The principal shall ensure that school staff and others who need to know, are informed of any precautions that may be required for the student's safety.

- 6.2.2** The principal shall ensure custodial parents are informed of their responsibility to:
- a) notify the school, in writing, of any custody or safety issues particular to their child/children of which the school should be aware; and
 - b) notify the school of any significant changes occurring during the school year.

6.3 Access Parents

- 6.3.1** An access parent wishing to receive information about his/her child, must contact the school/district and supply contact information via the *Access to Student Record* form ([Appendix B](#)). This form is to be completed only once and maintained as part of the student record for as long as it applies.
- 6.3.2** Having completed the *Access to Student Record* ([Appendix B](#)) form, an access parent shall be provided with information about the education of his/her child as determined by mutual agreement between the access parent and the school.

7.0 GUIDELINES / RECOMMENDATIONS

Note: Refer to [Appendix C](#) for information about handling specific custody arrangements.

7.1 Verifying Identification

- 7.1.1** For students in any grade who are protected from contact with any individual by way of a court order, principals must ensure that when students are released from school grounds, students are released only to:
- (a) the custodial parent, an access parent or a person authorized by the Province; or
 - (b) an authorized person.

Authorization would apply only within the restrictions specified in the access order or within the established access arrangement.

In order to permit the school to accommodate such requests, parents must provide written authorization. This must be kept in the student's cumulative record folder until the end of the school year, or, should it be the subject of contention, until it is no longer required. In the case of an emergency, school staff may accept authorization by phone if the identity of the caller can be established with confidence. In this case, a note regarding the date and time

of the call must be kept in the student's cumulative record folder, or, should it be the subject of contention, until it is no longer required.

7.1.2 When a person who is authorized to pick up a child, according to subsection 7.1.1, is not familiar to school staff, the principal must ensure that proof of identity is provided, preferably in the form of a driver's license or other photo identification, or government-issued photo identification, in the case of a government-authorized person.

7.1.3 When the access parent is not familiar to school staff, the principal must ensure the identity of the access parent and the relationship to the child are verified. Acceptable proof of identity includes the individual's driver's license or other photo identification. Acceptable proof of the relationship to the child includes: a copy of the child's birth certificate, a letter from the Province authorizing the person to use the child's Medicare number, and any court documentation.

7.2 Fees

Schools may require reimbursement from access parents to cover extraordinary expenses incurred by the school in providing information, including long-distance phone charges and courier and registered mail fees. Schools may also require access parents to provide self-addressed, stamped envelopes.

8.0 DISTRICT EDUCATION COUNCIL POLICY-MAKING

District Education Councils may establish policy, within the parameters of this policy and the [Education Act](#).

9.0 REFERENCES

Appendix A – [Denial of Access](#)
Appendix B – [Access to Student Record](#)
Appendix C – [Specific Custody Arrangements](#)
[Divorce Act](#)
[Education Act](#)
[Provincial Offences Procedure Act](#)

10.0 CONTACTS FOR MORE INFORMATION

Policy and Planning Branch – (506) 453-3090

ORIGINAL SIGNED BY

MINISTER