

GUARDIANSHIP OF CHILDREN

Background:

Guardianship plays a critical role in the operation of schools and the responsibilities of school divisions under Alberta's *Education Act*. Guardians are legally recognized individuals who have the authority to make important decisions regarding a child's education, well-being and overall development. This includes providing consent for school activities, accessing student information and participating in key decisions affecting the child's educational experience.

The *Family Law Act* establishes the legal framework for determining guardianship, parenting time and contact in Alberta. Schools must operate in alignment with these legal definitions to ensure the rights of guardians are respected while making decisions that support each child's safety and well-being,

Disputes over guardianship or access to student information may arise between parents or family members, particularly when legal guardianship has not been assigned by the court. In such cases, de facto guardianship lies with the parent or guardian with whom the child resides. Division staff are not responsible for resolving these disputes. Staff must act in accordance with legal documentation and ensure the protection and best interests of the child guide all decisions. Persons asserting guardianship must provide proof of legal status to the Principal if contested by the de facto guardian. This Administrative Procedure provides guidelines to help principals and school staff manage these situations while upholding the legal rights of guardians and protecting the safety and well-being of all children and students.

Definitions:

Access:

in this administrative procedure, a term from the federal *Divorce Act* that refers to the time a non-custodial parent spends with their child and the right to receive information about the child's well-being. In this Administrative Procedure, the equivalent term "Contact" from Alberta's *Family Law Act* will be used.

Contact:

time or communication with a child granted to a non-guardian (such as a grandparent or other significant individual) through a court order. Contact can include in-person visits, phone calls, electronic communication or other interactions.

Contact Claim:

a formal request made by a person who is not a recognized guardian but seeks interaction with the child. Legal proof, such as a court order, is typically required to validate the claim.

Court Order:

a legal document issued by a court that establishes or restricts certain rights, such as guardianship, parenting time or contact. Court orders are legally binding and must be presented to the Principal.

Custody:

a term from the federal *Divorce Act* that refers to the legal responsibility for a child's care, upbringing and decision-making authority, typically awarded to one or both parents following a divorce. In this administrative procedure, the equivalent term "Guardianship" from Alberta's *Family Law Act* will be used.

De Facto Guardian:

a person, typically a parent, with whom the child primarily resides and who assumes guardianship responsibilities when no formal court order assigning guardianship exists.

Guardian:

an individual recognized under Alberta's *Family Law Act* who has legal authority and responsibility for a child's care, upbringing and decision-making.

Guardianship:

the legal relationship established between a guardian and a child, involving rights and responsibilities such as decision-making authority, providing care and ensuring the child's welfare.

Parenting Order:

a court-issued document under Alberta's *Family Law Act* that outlines guardianship, parenting time and decision-making responsibilities for a child.

Parenting Time:

the time a guardian is legally entitled to spend with a child, as established by a parenting order under Alberta's *Family Law Act*. This includes both physical presence and the authority to make day-to-day decisions during that time.

Procedures:

1. Any person claiming they are a guardian of a student must be referred to the Principal.
2. Where there is a demand for contact with a student and legal guardianship is uncertain, the Principal shall:
 - 2.1. ask the claimant to identify themselves and produce a court order proving guardianship;
 - 2.2. inform the claimant the parent or guardian with whom the student lives shall be informed a claim for access has been made; and
 - 2.3. notify the parent or guardian with whom the student lives the claim for access has been made.
3. A record shall be kept by the school of any contact claims received, including dates, times, names, the demeanour of those involved and actual statements made.
4. When deemed necessary, the Principal shall inform the Executive Director of Division Supports of such requests for contact.
5. Any request for contact with a student or access to student information (for example, report cards, attendance records, etc.) from a parent or guardian with whom the student does not live shall be referred to the Principal.
 - 5.1. Such information may be released to an individual who has proven guardianship, provided the Principal has spoken to the child, the other parent and any other relevant persons to ensure there is no danger to the child or the other parent.

- 5.2. An individual who is acknowledged by the other parent to be a parent of a child, and for whom there is no court documentation on file at the school restricting contact with the child, is assumed to have parental rights unless the other parent indicates a danger to the child or the other parent.
- 5.3. If the other parent does not acknowledge the individual claiming parental status is in fact a parent, then that individual shall not be regarded as a parent unless proven by court order.
- 5.4. Principals are to use their discretion in dealing with such requests, bearing in mind that court orders regarding guardianship and parenting rights do not in any way bind the school staff or require them to take any particular course of action.
 - 5.4.1. The Principal and all school staff shall be guided only by the best interests of the child in making any decision regarding contact with the student or access to student information.
 - 5.4.2. In no circumstance shall the Principal or other school staff members allow parents to put them in the position of being a referee in guardianship or access disputes.
 - 5.4.3. No court order regarding guardianship issues can direct the school staff to take specific action

Reference:

Section 1, 2, 3, 32, 33, *Education Act*
Student Record Regulation
Child, Youth and Family Enhancement Act
Canadian Charter of Rights and Freedoms
Divorce Act (Canada)
Family Law Act