

## **SPECIAL SERVICES**

### **Admissions, Residency, and Attendance**

### **Parent Participation and Decisionmaking**

This regulation supersedes Regulation 2240.4.

#### **I. PURPOSE**

- A. To establish who shall be considered the parent responsible for a student in matters pertaining to the student's primary residence for school purposes and communication between home and school. This regulation also addresses the right of parents to determine the release of a student during the school day, to access student information, and to participate in school activities.
- B. In response to increasing requests from noncustodial or joint-custodial parents to participate in decisions about a child, this regulation also establishes procedures for resolving disputes between parents regarding school matters affecting the student. This regulation, not custody orders or settlement agreements between parents, governs school decisions.
- C. This regulation is not intended to restrict rights granted to either parent under state or federal law.

#### **II. SUMMARY OF CHANGES SINCE LAST PUBLICATION**

- A. Section IV.E. has been revised to clarify to whom a student may be released.
- B. Section IV.F. has been revised to clarify who is responsible for completing the emergency care information form and the rights of custodial parents in an emergency.

#### **III. DEFINITIONS**

##### **A. Custodial Parent**

A person who has legal custody of a child. Fairfax County Public Schools (FCPS) will assume that a natural parent has legal custody of the child unless FCPS is presented with a valid court order that denies the parent legal custody, terminates parental rights, or awards sole legal custody to the other parent or another individual.

Parents who are awarded joint legal custody pursuant to a valid court order will both be considered custodial parents. An award of physical custody to one parent does

not affect the other parent's status as custodial parent under this regulation as long as the parent without physical custody retains joint or sole legal custody of the child.

1. With the exception of military powers of attorney issued to a military member during deployment pursuant to 10 U.S.C. §1044b, FCPS will not accept powers of attorney, parent notes, notarized statements, or documents other than valid court orders as evidence of legal custody of a child or decision-making authority.
2. Stepparents, other family members, and caregivers will not be recognized as having the same rights as parents to make decisions, to have access to school records, and to have the child released to them during the school day. Parents may provide written consent for these individuals to have access to records as described in section IV.G. Custodial parents may provide written consent to allow these individuals to pick up the student during the school day as described in section IV.E.

#### B. Noncustodial Parent

A parent who, as specified in a court order, has not retained legal custody of the child. A noncustodial parent retains rights to participate in the special education process, to receive information about the child, and, upon request, to be listed on the child's emergency care card. FCPS will not deny a noncustodial parent the right to participate in school activities described in section IV.D. solely on the basis of the parent's noncustodial status or solely on the basis of the other parent's objection.

#### C. Enrolling Parent

The parent who resides in Fairfax County with the child and who meets the requirements described in section IV.A. The enrolling parent's residence is used by FCPS to determine the student's base school, as the student's mailing address, and for the provision of transportation services.

### **IV. PROCEDURES**

#### A. Determination and Responsibilities of the Enrolling Parent

1. The natural or adoptive parent or the legal custodian with whom the child physically resides in Fairfax County a preponderance of the school week, and who comes to school to enroll the child, shall be considered the enrolling parent for school purposes.
  - a. If parents who reside together enroll the student jointly, they will decide which of them is the enrolling parent. If they cannot agree, the principal will designate the enrolling parent by lot.
  - b. If both parents reside in Fairfax County but do not reside together, if they

have joint legal custody, and if the child's residence alternates between the parents in a manner that the child cannot be deemed to reside exclusively with either parent for a preponderance of the school week, the parents shall decide which of them shall come to school to enroll the child and be considered the enrolling parent for school purposes. If they cannot agree, the coordinator of student registration shall designate the enrolling parent by lot.

2. If a student is enrolled under one of the residency exceptions set forth in the current version of Policy 2202 (for example, child of nonresident FCPS employee), the parent or legal custodian who comes to school to enroll the child shall be considered the enrolling parent.
3. The enrolling parent remains the same throughout the student's attendance in FCPS unless one of the following occurs:
  - a. Parents who reside together jointly agree to a change in designation.
  - b. The original enrolling parent no longer meets the definition of enrolling parent.
  - c. The student leaves FCPS and subsequently reenrolls.
4. The enrolling parent is responsible for sharing school information with the other parent and for communicating parent decisions to school staff members as set forth in section IV.C.
5. The enrolling parent does not have the authority to limit or deny the other parent's right to information about the child or to participate in school events unless a valid court order specifically addresses and limits those rights.

**B. Determining Eligibility for Admission and Continuing Attendance**

1. The student must meet the admissions requirements set forth in the current version of Policy 2202 in order to attend FCPS. Further, unless a residency exception set forth in the current version of Policy 2202 applies, the student must physically reside with the parent who lives in Fairfax County (the enrolling parent) a preponderance of the school week. This requirement shall not, however, prohibit a student from attending FCPS if the student is living temporarily (e.g., for part of the week or month) with a custodial, joint-custodial, or noncustodial parent, as long as the student's residence remains that of the enrolling parent a preponderance of the time.
2. If parents have 50-50 joint custody, the student retains eligibility to attend FCPS as long as the student resides 50 percent of the time with the parent residing in Fairfax County.

**C. Making Decisions**

1. If the student lives with both parents in the same household, the parents are expected to make collective decisions on his or her behalf. School personnel will assume that one parent acts on behalf of both. In the event of contradictory instructions from parents who reside together, school personnel will make reasonable efforts to determine the collective wishes of the parents. If school personnel cannot make this determination readily, they will follow the instructions of the enrolling parent.
2. If the student is not residing with both parents in the same household, it shall be the responsibility of the enrolling parent to share school information and to secure consensus in the decision-making process. If a consensus cannot be reached, school personnel will follow the instructions of the enrolling parent.
3. In the case of a student who is being considered for, or is eligible for, special education services, the enrolling parent shall attempt to obtain consensus as described in subparagraphs 1 and 2 above. If the parents continue to disagree, either parent (regardless of custodial, residential, or enrolling parent status) may provide consent for evaluation, eligibility, individualized education program, or other special education services. The objecting parent may appeal to the extent that law or school system procedures allow, or that parent may seek a court order limiting the other parent's authority to make educational decisions.
4. The enrolling parent's decision-making authority is not intended to supersede any rights of the other parent as provided by state or federal law.

**D. Attending School Conferences and Other School Events**

1. School-parent conferences shall be scheduled by and conducted with the enrolling parent. Conferences requested by a joint-custodial or noncustodial parent shall be honored. The principal, however, may require that both parents attend the same conference.
2. Joint and noncustodial parents have the same rights to attend events at the school (e.g., lunches with children, classroom visits, school productions) as the enrolling parent. No parent, including the enrolling parent, may limit the other parent's attendance at such events or the other parent's access to the student at school, unless a court order specifically precludes that parent from attendance at school or from access to the student at school. Visitation schedules contained in custody orders do not constitute a specific limitation on a parent's access to schools.
3. FCPS may deny a parent—regardless of custodial status—the opportunity to enter and remain on school property or to participate in school events if the parent's presence poses safety or disruption concerns as described in section IV.H.

E. Releasing a Student

1. FCPS will release the student upon request to a parent with sole or joint legal custody (in other words, a custodial parent). An award of sole physical custody to one parent will not prevent the parent without physical custody from picking up the child as long as the parent without physical custody retains legal custody of the child.
2. Visitation schedules do not control the principal's decision to release a student to a custodial parent. The principal will refuse to release the student to a custodial parent only if presented with a valid court order that specifically denies the parent legal custody, prohibits contact with the student, or denies the parent unsupervised visitation as described in section IV.H.
3. FCPS will release the student to persons, other than parents, listed on the emergency care information form by the enrolling parent. Release of the student to a parent shall be governed by subparagraph 1. above regardless of whether the parent's name appears on the emergency care information form. See IV.F.2. and 3. for additional information.
4. The principal shall require a written note signed by the custodial parent giving permission to release the student to any other adult including stepparents, other adult family members and caregivers.
5. A formal checkout system shall be maintained in each school.

F. Emergency Care

1. The enrolling parent shall be responsible for completing the emergency care information form (SS/SE-3) by providing parent or guardian contact information, designating and providing contact information for at least two individuals who have the parent's permission to make emergency decisions regarding the student and to pick up the child from school, and providing accurate information about the child's current health conditions.
2. Any parent who has legal custody of the student has the right to make decisions concerning the child in the event of an emergency, to pick up the child from school, and to be included on the emergency care information form even if the enrolling parent has not provided his or her information on the form.
3. Upon request of the noncustodial parent, he or she must be included on the emergency care information form unless FCPS has been provided a court order specifically restricting this right. In the event of an emergency, FCPS may provide notification and information about the child's condition to the noncustodial parent but will not release the student to the noncustodial parent without the written consent of the custodial parent.

4. In the event of an emergency, school staff members shall attempt to contact the enrolling parent first, and then the other custodial parent, if any. The designated contact(s) on the emergency care information form shall be called if the enrolling parent or other custodial parent cannot be reached.

#### G. Accessing Student and School Information

1. A parent, regardless of custodial status, or a legal custodian of a student shall have access to scholastic records relating to that student, unless a court order specifically directs otherwise. Such requests shall be processed under the Family Educational Rights and Privacy Act (FERPA) and in accordance with the current version of the Management of Students Records manual. Stepparents and other caregivers do not have access to student records unless a parent (or the student, if age 18 or over) has provided signed written consent to that access. FCPS form SS/SE-79 may be used by the parent (or the student, if age 18 or over) to authorize stepparents, caregivers, and other parties to have access to student records. Reasonable charges may be imposed for photocopying and postage in accordance with the current version of Notice 2701.
2. It shall be the responsibility of the enrolling parent to furnish general information (newsletter, schedules, and the like) to the other parent of the student. The principal, at his or her discretion, may grant requests to provide separate copies of such information to a joint-custodial or noncustodial parent on an ongoing basis. Reasonable charges for postage and photocopying shall be borne by the parent requesting the information.
3. Requests for school system records, other than student records, shall be processed under the Virginia Freedom of Information Act and the current version of Regulation 1501. Reasonable charges may be imposed to cover the cost of searching, photocopying, and mailing in accordance with the current version of Notice 2701.

#### H. Limits on Parent Participation Due to Safety or Disruption Concerns

1. FCPS may deny access to school grounds to parents and other potential school visitors who appear on the Virginia Sex Offender Registry.
2. FCPS may deny parents, regardless of custodial status, access to the student and to school property if the parent is the subject of a restraining order or other court order prohibiting the parent from having contact with the student or being present on school grounds.
3. FCPS may deny parents, regardless of custodial status, access to the student and to school property if the parent is restricted by court order from having unsupervised visitation with the child.

4. FCPS may limit or deny access to school property to any person who interferes with school operations, causes a disruption, fails to follow directions of school staff members, or in any way raises safety or security concerns in the school environment.

I. Other Requirements

1. School officials may require any person seeking access to a student, student records, or the school to produce adequate identification, such as photo identification, sufficient to show that the person is entitled to such access.
2. School officials may require any parent seeking to control the other parent's access to a student, student records, or the school to produce a court order that specifically addresses that access issue. It is the parent's responsibility to ensure that the school has copies of court orders or any other legal document that the parent believes to be relevant.

Legal references: Family Educational Rights and Privacy Law, 20 U.S.C. Section 1232g  
Code of Virginia, Sections 2.2-3700 through 2.2-3714, 18.2-370.5, 20-124.6,  
22.1-4.3, 22.1-287

See also current versions of: Policy 1360, Visitors to Schools  
Regulation 1501, Public Access to Information  
Policy 2110, Student Safety  
Policy 2202, Eligibility for Enrollment  
Policy 2232, Student Attendance at School  
Regulation 2701, Student Personal Data  
Notice 2701, Schedule of Fees for Duplicating Student  
Scholastic Records  
FCPS Form SS/SE-79  
Management of the Student Scholastic Record Manual