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, shall govern the actions of school staff.

II. SUMMARY OF CHANGES SINCE LAST PUBLICATION

A. Section V.A.1., revised to address impartial decision-making process.

B. Section V.A.2., revised to address impartial decision-making process.

C. Section X.C., revised to address duplicate copies for joint custodial or noncustodial parents.

III. DEFINITIONS

A. Custodial Parent

1. 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.

2. Court orders stating that a parent has either sole legal custody or legal custody in a shared arrangement with the other parent (joint, shared, or split) will be
considered confirmation that a parent has legal custody and is a custodial parent for purposes of this regulation. 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 legal custody of the child. Parents who, pursuant to a valid court order, are awarded legal custody in a shared arrangement (joint, shared, or split) will both be considered custodial parents.

3. FCPS shall consider a person who is not the natural parent of a student to be the student's custodial parent if the person:

   a. Has been granted legal custody of the child pursuant to a valid court order signed by a judge;

   b. Has been designated pursuant to a military power of attorney issued under 10 U.S.C. 1044b to act as the student's parent during the period of the natural parent or legal custodian's military deployment; or

   c. Has been authorized to act as a parent pursuant to a kinship care arrangement in accordance with the current version of Policy 2202, Eligibility for Enrollment.

   FCPS will not accept other types of 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.

B. Noncustodial Parent

A parent who, as specified in a court order, has not retained legal custody of the child. Court orders that deny the parent legal custody, terminate parental rights, or award sole legal custody to the other parent or another individual constitute determinations of noncustodial status. 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 for notification and information purposes only. FCPS will not deny a noncustodial parent the right to participate in school conferences and other school events as described in Section VII, 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 V. 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. DETERMINING ELIGIBILITY FOR ADMISSION AND CONTINUING ATTENDANCE

A. 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 as defined in Section V.A. 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 the non-enrolling parent, as long as the student's residence remains that of the enrolling parent a preponderance of the time.

B. If a person who does not have legal custody of the child or whose custody rights are in question seeks to enroll, or has enrolled, a child in FCPS, the matter shall be referred to the Office of Student Registration who will address eligibility for enrollment in accordance with the current version of Policy 2202.

V. DETERMINATION AND RESPONSIBILITIES OF THE ENROLLING PARENT

A. The natural or adoptive parent or the legal guardian 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. Preponderance of the school week is determined by identifying the residence in which a student sleeps overnight before a school day (i.e., Sunday through Thursday nights).

   1. If parents who reside together enroll the student jointly, they will decide who will be the enrolling parent. If they cannot agree, the principal shall facilitate an impartial decision-making process to designate the enrolling parent.

   2. 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. FCPS encourages shared decision making between joint custodial parents. In cases where no consensus can be achieved between parents after reasonable efforts have been made, the coordinator, Office of Student Registration, shall facilitate an impartial decision-making process to designate the enrolling parent.

   3. 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 guardian who comes to school to enroll the child shall be considered the enrolling parent.

B. The enrolling parent remains the same throughout the student’s attendance in FCPS unless one of the conditions set forth in subsection 1-3 occurs. If there is a change in
enrolling parent or in the student’s residence during the school week, the parents 
must inform the school and the new enrolling parent must complete new enrollment 
forms for the student.

1. Parents who reside together jointly agree to a change in designation.

2. The original enrolling parent no longer meets the definition of enrolling parent. For 
   example, the student no longer lives with the parent the preponderance of the 
school week or the parent no longer resides in Fairfax County.

3. The student leaves FCPS and subsequently reenrolls.

C. The enrolling parent is responsible for sharing school information with the other 
   parent as set forth in Section X.C., and for communicating parent decisions to school 
   staff members as set forth in Section VI. See also Section III.C.

D. The decision of the Office of Student Registration regarding which parent meets the 
definition of enrolling parent shall be final.

VI. MAKING DECISIONS

A. 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.

B. If the student is not residing with both parents in the same household and the parents 
share legal custody, it shall be the responsibility of the enrolling parent to share school 
information and to attempt to obtain consensus in the decision-making process. If a 
consensus is not reached, school personnel will follow the instructions of the enrolling 
parent.

C. If one parent has been awarded sole legal custody of the student, school personnel 
shall follow the instructions of that parent.

D. In the case of a student who is being considered for, or is eligible for, special 
education services, the enrolling parent is expected to attempt to obtain consensus 
as described in Sections VI.A. and VI.B. 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.
E. The enrolling parent’s decision-making authority does not allow the enrolling parent to deny the other parent the right to participate in the student’s education as described in Sections VII, VIII, IX, and X of this regulation.

F. With the exception of military powers of attorney issued to a military member during deployment pursuant to 10 U.S.C. 1044b or kinship care arrangements as described in Section III.A.3., 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.

G. Stepparents, other family members, and caregivers will not be recognized as having the same rights as custodial parents to make educational decisions for the student unless they meet the requirements of Section VI.F. above, or a specific provision of state or federal law allows them to act in that capacity in the absence of a natural parent or legal guardian.

VII. ATTENDING SCHOOL CONFERENCES AND OTHER SCHOOL EVENTS

A. 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.

B. 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. A parent may attend school conferences and other school events at any time the school allows parents to participate in these ways, not just at times or on days when the parent has visitation with the child pursuant to a visitation schedule.

C. 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 XI.

VIII. RELEASING A STUDENT DURING THE SCHOOL DAY

A. 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. Visitation schedules do not control the principal’s decision to release a child to a custodial parent. A custodial parent may have the child released to him or her at any time, not just at times or on days when the parent has visitation with the child pursuant to a
visitation schedule. 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 XI.

B. FCPS will release the student, without written parent consent, to a stepparent with whom the child resides. Resides means the student lives with the stepparent on a day-to-day basis in a custodial parent’s home even if the student’s residence is split between custodial parents.

C. FCPS will release the student to persons who are listed on the Emergency Care Information form (SS/SE-3) by the enrolling parent as other emergency contacts; however, release of the student to a parent shall be governed by Section VIII.A. above, regardless of whether the enrolling parent has listed the other parent’s name on the Emergency Care Information form. See Sections IX.B. and IX.C. for additional information.

D. The principal shall require a written note signed by a custodial parent giving permission to release the student to any other adult, including stepparents, adult family members, and other caregivers with whom the child does not reside. In situations where parents share legal custody of the child, either custodial parent may give such written permission. A parent who is the subject of 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 XI, may not authorize the release of the child to others so long as such court order remains in effect.

E. A formal checkout system shall be maintained in each school.

IX. EMERGENCY CARE

A. The enrolling parent shall be responsible for completing the Emergency Care Information form (SS/SE-3) by providing parent or legal 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. The principal may edit the card as necessary to complete or correct information to comply with this regulation.

B. 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.

C. 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.

D. 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.

X. ACCESSING STUDENT AND SCHOOL INFORMATION

A. A natural parent, regardless of custodial status, or a legal guardian of a student shall have access to scholastic records relating to that student, unless a court order specifically directs otherwise. A stepparent with whom the child resides also may have access to the child’s scholastic records. Such requests shall be processed under the Family Educational Rights and Privacy Act and in accordance with the current version of the Management of Students Records manual.

B. Other adults involved with the student, such as a stepparent with whom the child does not reside, other family members such as grandparents, caregivers, or representatives, do not have access to student records unless a parent (or the student, if aged 18 or over) has provided signed written consent to that access. FCPS Consent for Release of Education Records form SS/SE-79 may be used by the parent (or the student, if aged 18 or over) to authorize family members, caregivers, and other parties to have access to student records.

C. 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. Upon request, and when reasonable, principals will work collaboratively with families that may require duplicate copies of student information to keep both parents informed or to make information available electronically. This would include granting 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.

D. 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, Public Access to Information. Reasonable charges may be imposed to cover the cost of searching, photocopying, and mailing in accordance with the current version of Notice 2701, Schedule of Fees for Duplicating Student Scholastic Records.

XI. LIMITS ON PARENT PARTICIPATION DUE TO SAFETY OR DISRUPTION CONCERNS

A. FCPS may deny access to school grounds to parents and other potential school visitors who appear on the Virginia Sex Offender Registry.
B. 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.

C. 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.

D. 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.

XII. OTHER REQUIREMENTS

A. 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.

B. 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: 10 U.S.C. 1044b
20 U.S.C. 1232g
Code of Virginia, Sections 2.2-3700 through 2.2-3714, 18.2-370.5, 20-124.6, 22.1-3, 22.1-4.3, and 22.1-287

See also current versions of:

Notice 2701, Schedule of Fees for Duplicating Student Scholastic Records
Policy 1360, Visitors to Schools
Policy 2110, Student Safety
Policy 2202, Eligibility for Enrollment
Policy 2232, Student Attendance at School
Regulation 1501, Public Access to Information
Regulation 2701, Student Personal Data
Management of the Student Scholastic Record Manual