

## **RIGHTS OF SEPARATED OR DIVORCED PARENTS AND OTHERS REGARDING MINOR CHILDREN**

This Policy explains the obligations of New Hanover County Schools staff with respect to the rights of divorced or separated parents/guardians, grandparents, step-parents and others regarding students who are minors.

### **A. General Rule is Equal Rights for Parents**

Unless a court, by valid court order, has taken away or altered a parent's rights, both parents will continue to have equal rights with respect to their children, even after they become separated or divorced. These rights include both "legal custody" and "physical custody" as defined below. In situations where a court order alters a parent's custody rights, school staff should recognize that both parents are still the parents of the minor child and no parent should be demeaned or disrespected in any way as a result of having only limited custody rights.

### **B. Legal Custody vs. Physical Custody**

The term "legal custody" as used in this Policy is all the rights the law affords parents/guardians with respect to their children, except for "physical custody", including but not limited to:

- The right to view and receive copies of their child's educational records, including progress reports, reports cards, discipline records, attendance records, etc.;
- The right to sign consent forms, permission slips or other documents parents are required or asked to sign; and
- The right to enroll or withdraw their child from school.

The term "physical custody", as used in this Policy, is the right to be in the physical presence of and to move the child from place to place, including but not necessarily limited to:

- The right to pick up or check their child out of school; and
- The right to visit their child briefly at school.

### **C. Responsibility of Parents/Guardians**

If a parent/guardian wishes that the rights of the other parent with respect to their child be restricted, it is that parent's/guardian's responsibility to produce to the principal a valid, current and legible court order which restricts the other parent's rights. Such court orders will be honored by the New Hanover County Schools.

### **D. Interpreting Court Orders**

When interpreting court orders regarding child custody, school officials should use the following general guidelines, unless doing so would conflict with a specific provision in the court order:

- Court orders granting "joint custody" to parents/guardians do not restrict either parent's rights to legal custody or physical custody;
- Court orders granting "primary custody" to one parent/guardian and "secondary custody" to the other parent/guardian are to be interpreted as granting primary physical custody to one parent and secondary physical custody to the other, while both parents/guardians maintain their rights to legal custody;
- A parent/guardian who is given secondary custody by a court order may exercise that parent's rights to physical custody only during the times specified in the court order during which that parent is given secondary custody rights, which are typically referred to

as visitation rights. (Example: a parent/guardian who is given visitation each Wednesday has the right to pick up the child from school only on Wednesdays and the other parent/guardian has the right to pick up the child on all other days, but not Wednesday);

- Parents/guardians who are given primary custody by a court order have physical custody of their child at all times except those specific times when the other parent/guardian has visitation or secondary custody rights;
- Court orders granting sole custody to one parent should typically be interpreted to mean granting sole physical custody and not affecting the other parent's right to legal custody.

Any questions concerning the interpretation of court orders or parental rights should be referred by principals to the Assistant Superintendent for Student Support Services or the Board Attorney.

#### **E. Unauthorized Contact With Students**

If there is an attempt by a parent or other person to pick up or check out a minor child during a time in which that person does not have physical custody rights, school personnel who have been properly informed of the limitations on such person's custody rights, should take reasonable steps to keep from releasing the child to such person and shall notify law enforcement and the other parent promptly. A person who picks up or removes a minor child from school at a time in which they have no legal right to do so, may be guilty of child abduction.

#### **F. Parental Consent May Override Custody Order**

A parent/guardian, grandparent, step-parent or other person who does not have physical custody rights at the time the person attempts to pick up or remove the minor child from school, may nevertheless be allowed to do so with the written consent of the other parent who has physical custody rights during that time.

#### **G. Cooperation Encouraged**

Separated or divorced parents, grandparents, step-parents and others are strongly encouraged to work cooperatively with each other and with school personnel to avoid disputes over the exercise of their custody rights, especially with regard to the pick up or removal of children from school. It is not the responsibility of New Hanover County Schools' staff to attempt to resolve custody disputes between parents and other family members or interested persons. Parents and others with custody or visitation rights should keep the school office informed of their addresses, residences and contact information at all times.

#### **H. Definition of "Parents"**

The term "parents" as used in this Policy includes legal guardians, legal custodians and others in loco parentis with a child, who are given the rights of parents by law, as the context requires. Grandparents, step-parents and others who are awarded visitation rights by a court order will be treated the same as parents/guardians who have visitation rights with respect to physical custody.

Adopted: 01/03/95

Revised: 04/05/11