

STUDENTS

Custody Students

This rRegulation will regulate the entry of custody students into the School Division.

A. Definitions

For the purposes of this regulation, the following definitions apply:

“Custody student” means a school-age minor child whose legal and/or physical custody is shared with more than one person who may not reside with the other person who shares legal and/or physical custody. “Custody student” also includes a student who is in the court approved custody of a City of Virginia Beach resident and living full-time with the resident not solely for the purpose of attending school. The School Division does not accept petitions for custody, outdated protective orders, outdated custody orders, tax returns, powers of attorney, parent/legal guardian notes, or notarized statements as evidence of a student’s eligibility for enrollment. “Custody student” does not include foster students nor students otherwise qualified to enroll pursuant to Regulation 5-10.1.

“School night” means the night immediately preceding a scheduled school day.

“Natural or adoptive parent” means a person who can establish by a birth certificate or paternity orders that the personhe/she

is the natural or birth parent of a child or through adoption orders is the adoptive parent of a child.

“Custody order” means a certified and current court order signed by a judge having jurisdiction to make a custody determination concerning a child. Failure to provide the most current custody order may constitute reason to deny enrollment or continuing attendance for a child. The School Division reserves the right to verify the validity of a custody order.

B. Procedures

Any person seeking to enroll a “custody student” must present evidence that the student resides with a City of Virginia Beach resident who has legal and/or physical custody of the student during the school year. Current and certified court orders must be presented to establish legal and/or physical custody. Natural or adoptive parents who have not obtained a court order regarding custody will be presumed to have full custody of the student but may be required to produce evidence that the student resides with them for three or more school nights each week during the school year. Enrollment or continuing attendance may be denied until appropriate evidence is provided. School-age minor children remain subject to compulsory attendance laws and parents/legal guardians are responsible for making alternative education plans while enrollment is pending. The School Division will not grant attendance or course waivers for students who were unable to establish residency in a timely manner. Custody orders must be provided to the school by the person seeking to enroll the student.

If more than one person has joint legal and/or physical custody of a student and the custody arrangements do not clearly set forth a primary nighttime physical residence in the City during

the school week for the student, then the persons having legal and/or physical custody must ~~make a decision~~decide concerning where the student will enroll. If consensus cannot be reached by those persons, the Director of the Office of Student Leadership or designee will ~~make a determination~~decide. Once a decision is made, the student's primary nighttime physical residence during the school week will remain the same unless extenuating circumstances are presented to justify a change in residence. Transportation from outside the assigned school zone will be the responsibility of the persons with legal and/or physical custody. If it becomes evident that a custody student is not residing within the City of Virginia Beach or within a specific school zone, the School Division reserves the right to investigate the matter and take appropriate action. Such action may include change in school assignment, denial of continuing enrollment and/or payment of tuition costs to the School Division by the parent/legal guardian.

Any person who is not the natural/adoptive parent of a student and is seeking to enroll such student must complete a custody enrollment form with the Office of Student Leadership. The Office of Student Leadership will determine if the person is eligible to enroll the student.

C. Participation by, and Notification of, Non-Custodial Parents/Legal Guardians

1. The non-custodial parent/legal guardian of a minor student enrolled in the School Division shall be allowed to participate in any of the student's school activities in which participation is supported or encouraged by the policies of the ~~school,~~ unless school unless a court order has been issued to the contrary.

2. The non-custodial parent/legal guardian of a student shall be included, upon the request of such non-custodial parent/legal guardian, as an emergency contact for the student's school activities, unless a court order has been issued to the contrary.

For the purposes of this section, "school activities" shall include, but not be limited to, lunch breaks, special in-school programs, parent-teacher conferences and meetings, and extracurricular activities. It is the responsibility of the parent/legal guardian to provide the court order to the school.

D. Rights of Persons Who Have Legal Custody

1. Any person having legal or physical custody of a minor student may enroll that student in school as long as the person and the student are residents of the City-City, and the student maintains nighttime residence with the enrolling person during the school year.
2. If more than one person has legal custody, each person with legal custody has the right to access the student's records, make educational decisions regarding the student, remove the student from school or authorize another person to do so on his/her behalf, participate in meetings related to the student, and attend school sponsored events to which parents are invited. If a court order prohibits a person with legal custody from doing any of those things, the School Division will only be responsible for enforcing that prohibition if a court order is provided by a legal custodian to the School Division. Persons with legal custody may be banned from or have their privilege of access limited to school or school sponsored events if the School Division

determines that such person poses a threat, ~~danger~~ danger, or disruption to the educational environment.

3. The School Division cannot enforce custody or visitation arrangements. Unless prohibited by a current court order, a person with legal and/or physical custody may exercise all rights of a natural/adoptive parent, except for enrollment. Parents and legal guardians should not exercise their visitation rights during school hours and should not attempt to interfere with the custody or visitation rights of other persons by removing a student from school. The School Division reserves the right to prohibit parent/legal guardian access to their student at school if school staff determines that such visits are causing disruption to the student or school.
4. The School Division will not be responsible for providing duplicate copies of school materials or student education records if more than one person has legal and/or physical custody of a student. Persons with legal and/or physical custody are encouraged to utilize the School Division's online access for student records and announcements and should otherwise make arrangements with other legal/physical guardians to obtain copies of school materials and student education records. The School Division will not be required to hold separate meetings with persons with legal or physical custody of a student and may instead require that all such persons attend one meeting. In those cases where consensus cannot be reached by such persons on the date or time of a meeting, the School Division may go forth with the meeting with only one person with legal custody.

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Legal Reference

Code of Virginia § 22.1-3. Persons to whom public schools shall be free.

Code of Virginia § 22.1-4.3. Participation by, and notification of, non-custodial parent.

Related Links

School Board [Regulation 5-10.1](#)

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APPROVED AS TO
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