



ADMINISTRATIVE PROCEDURES

SUBJECT: Access to Pupils

Preamble

The Lambton Kent District School Board is committed to ensuring student safety through adherence to custody and access rights to students in accordance with directives set out in legal custody and access arrangements, the Education Act and the Freedom of Information and Protection of Privacy Act.

The principal shall exercise discretion in the best interests of the student(s).

The principal should seek the advice of the appropriate superintendent in any case in which there is some question, doubt, or difficulty.

Definitions

1. **Guardian** is defined as a person, other than a parent, who has lawful custody of a child, as established by court order. The legal rights granted to a guardian with respect to the custody of a child may only be varied by a court order.
2. **Custody** refers to the rights and responsibilities of a parent relative to a child, including the right to physical access, and the right to make decisions relative to the child's health, education and welfare, in the best interests of the child.

Both parents are equally entitled to custody of their child and either parent, independently, may exercise the rights and accept the responsibilities of a parent with respect to the child, unless either parent to the contrary has provided a written separation agreement or court order.

Where parents live separate and apart, and the child lives with one of the parents, the right of the other parent to access and information remains.

3. **Access** includes the right to visit with and be visited by the child and the same right as a custodial parent/guardian to make inquiries and to be given information relative to the health, education and welfare of the child, subject to any restrictions or conditions on those rights which are contained in a court order or separation agreement.

The access rights of a parent/guardian, regardless of whether or not the child lives with that parent, may be varied or denied only by written separation agreement or court order.

As indicated in the definition of access, a parent/guardian with a right of access to a child is entitled to request and to be provided with information regarding his or her child's education, health and welfare.

4. **Ontario Student Record (OSR)** is the record of a student's educational progress through schools in Ontario. The Education Act requires that the principal of a school collect information for inclusion in a record in respect of each pupil enrolled in the school and to establish, maintain, retain, transfer and dispose of the record. The Act also regulates access to an OSR and states that the OSR is privileged for the information and use of supervisory officers and the principals and teachers of the school for the improvement of instruction of the student. Each student and the parent(s)/guardian(s) of a student who is not an adult (that is, a student under the age of eighteen) must be made aware of the purpose and content of, and have access to, all of the information contained in the OSR.

(Ontario Student Record – Board Guideline 2001)

Under the Municipal Freedom of Information And Protection of Privacy Act, a person who has **access** to a record is entitled to a photocopy of the record. This right of access means within thirty days. The principal or designate can make a copy of any part of the OSR identified within the Ontario Student Record – Board Guideline 2001.

A parent/guardian (or adult student) wishing to view the contents of the OSR should contact the principal to make an appointment so that the appropriate personnel can be present to review and respond to questions about the content. A principal will provide supervised access to the OSR within forty-eight hours of the request from a parent/guardian (or adult student), where possible. Contact the Board FOI Coordinator for clarification of access to all non-OSR records.

Board developed Consent to the Disclosure, Transmittal or Examination of Records or Information form must be used for consent when releasing information from the OSR.

- a. The Documentation File, where required, will be kept in the OSR folder. A documentation file will be established when the following information is required: (Ontario Student Record – Board Guideline 2001)
 - Verification of a custody order
 - Verification of a change of surname
 - A written request to be named by repute
- b. Every student has the right to have access to his or her OSR. (Ontario Student Record – Board Guideline 2001)
- c. The parents/guardian of a student have the right to have access to the student's OSR until the student reaches the age of eighteen. Under both the Children's Law Reform Act and the Divorce Act, 1985, the legal right of a non-custodial parent to have access to a child includes the right to make inquiries and to be given information concerning the child's health, education and welfare. (Ontario Student Record – Board Guideline 2001)
 - Parent(s)/guardian(s) of students under the age of eighteen have the right to access their OSR. A non-custodial parent has the same access rights but may be asked for identification
 - A step-parent or common-law parent must have written consent from the natural parent for access to the OSR. This consent must be stored in the OSR.
 - A foster-parent/guardian with legal guardianship or written consent from CAS may have access to the OSR.
 - Upon adoption of the child, the parent who is giving up legal parenthood is also giving up legal rights to the OSR; however, written consent can be given for access by the other natural parent.

Role of Principal

1. General Access – The principal should encourage custodial parents, guardians and their delegates, non-custodial and separated parents, police and Family and Children's Services personnel to take reasonable and substantial interest in supporting the school in reinforcing the goal of developing a positive learning environment for children.

2. Appointment For Access / Interviews - Provide for minimal disruption by requiring that persons seeking access to students be expected to make an appointment in advance so that mutual convenience and minimal disruption may be assured.

This may not strictly apply to Board staff and consultants, both of whom regularly visit schools in the discharge of their duties and make appropriate arrangements with the principal.

3. Report to the Office – Persons seeking access to pupils are required to report to the office, upon arrival at the school. Such persons will be required to sign the Visitor's Book.
4. Identification of Person – Unless the visitor is known, the principal must ensure, through proper identification, that the visitor is who they purport to be.
5. Access by Custodial Parents, Guardians and their delegates, Non-custodial and Separated Parents

In the vast majority of cases the principal will cooperate with the custodial parent/guardian who wishes to visit with one or more of his or her children, even during school hours when classes or other activities are in progress. This cooperation will generally be extended to a person who is known to be the delegate of the custodial parent/guardian or in a position of daily care. The decision to refuse such access, or to impose controls on such access, must be exercised with considerable caution and sensitivity.

Where a parent/guardian seeks to exercise access rights, which have been terminated or denied by court order or separation agreement, the principal will deny access. Principals should take reasonable steps to prevent unauthorized access to a student by their parent/guardian, including, where necessary, contacting the police for assistance and intervention.

In response to a request for physical access to a child from a non-custodial parent/guardian, the principal will provide access based on the provisions of the written court order or separation agreement in the OSR, and in consideration of the safety and best interests of the child.

6. Access by Board Staff and Board Consultants

The needs of pupils and staff are served by many individuals whose duties take them from school to school (specialists, itinerant staff, related professionals, building construction, information technology and maintenance). Once the principal has identified visitors as Board staff or Board consultants, the regular school staff is expected to cooperate as required, in order that Board staff or Board consultants are able to apply their expertise for the benefit of the particular students and staff they are to serve.

Neither the presence nor prior consent of the custodial parent/guardian is required for access to pupils by Board staff or Board consultants except where consent is required by law or by LKDSB policies, regulations or procedures.

7. Refusal of Access – The principal has the power under the Education Act, where they determine that the presence of the visitor would be detrimental to the physical or mental wellbeing of a particular student or students generally, to refuse admission to a visitor. However, the principal is required to advise the visitor that they have the right to appeal the refusal to admit directly to the Board through the Director of Education. This does not apply to Board staff or to Board consultants.

Where significant concerns are present, the principal will not provide access until such time as direction is received from the Superintendent of Schools and/or legal counsel.

Role of the Custodial Parents, Guardians and Their Delegates

8. It is the parent's/guardian's responsibility to notify the school with respect to any changes to custody or access rights and to provide the principal with a copy of the most recent applicable separation agreement or court order at the earliest opportunity. Documentation affecting custody or access rights of parents/guardians with respect to their child should be retained in the OSR.

It is not the role of the Board to mediate disputes between separated parents/guardian. This is the role of the courts and the respective legal counsel for each parent/guardian.

Role of Non-Custodial and Separated Parents

9. It is the non-custodial or separated parent's responsibility to abide by custody or access rights. They may be asked to provide the principal with a copy of the most recent applicable separation agreement or court order where a difference of opinion becomes apparent.

Access by Police

Refer to Protocol Between the Police Services, School Boards and Children's Services.

Access by Family and Children's Services

10. In the case of a child who is a ward of the Crown or a Children's Aid Society, Family and Children's Services, by law, stands in the role of the parent/guardian. All procedures that relate to the custodial parent/guardian apply equally to such Family and Children's Services.

In addition, Family and Children's Services have an obligation by law to afford protection to children in need, and for this purpose, have the power to apprehend such children.

Access by Others

11. As a general rule, no access to or interviews with a pupil will be permitted to persons outside of the categories defined above. Where permitted, it is the duty of the principal to be satisfied that the obtained consent is legitimate and that the custodial parent has been encouraged to be present.

Trespass

12. Trespass refers to a person's unwanted and illegal presence on private property. At all times, Principals should attempt to accommodate approved parental/guardian and guest presence in our schools.

Type 1 Trespass Letter

- a. If a conflict cannot be resolved between the Principal and Person X, and it is determined by the Principal that Person X's presence on school property is detrimental to the safety of student(s) and/or staff, the Principal shall issue a Type 1 Trespass Letter. (Appendix A)
- b. The letter will be mailed to the recipient with copies sent to the local police service, all school staff and the LKDSB Community Use of Schools Coordinator.
- c. Type 1 Trespass Letters will be reviewed at the end of each school year. Re-entry interviews can be arranged if deemed necessary by the Principal.
- d. Type 1 Trespass Letters and associated materials are to be filed by the Principal and are to be made available to the incoming Principal in the event of an administrative transfer.

Type 2 Trespass Letter

- a. If the conflict involves a parent/guardian (Person X) whose child is a student in the school and it is determined by both the Principal and the Area Superintendent that Person X's presence on school property is detrimental to the safety of student(s) and/or staff, the Principal shall draft a **Type 2 Trespass Letter** (Appendix B) and sent to the Area Superintendent for review and approval.
- b. Once approved by the Area Superintendent, the letter will be mailed to the recipient with copies sent to the local police service, all school staff and the LKDSB Community Use of Schools Coordinator.
- c. A copy will also be sent to the Superintendent of Human Resources, for central filing purposes.
- e. Any plan to allow Person X to re-enter the school must be approved by the Area Superintendent in writing. In such cases, written permission will be added to the central file.
- f. Type 2 Trespass Letters will be reviewed at the end of each school year. Re-entry interviews can be arranged if deemed necessary by the Principal and Area Superintendent.
- g. All Trespass Letters and associated materials are to be filed by the Principal and are to be made available to the incoming Principal in the event of an administrative transfer.

Implementation Date: April 9, 2003

Revised: December 1, 2009

Reviewed: April 29, 2019

Reference: Education Act
LKDSB Guideline Ontario Student Record
LKDSB Administrative Procedure Ontario Student Record
LKDSB Policy and Regulations Access to Schools and Board Property
Ontario Regulation 474/000, Access to School Premises
The Children's Law Reform Act, R.S.O. 1990, c.C.12, as amended
The Children and Family Services Act, R.S.O. 1990, c.C.11, as amended
The Divorce Act, R.S.O. 1985, c.3, as amended
Protocol Between the Police Services, School Boards and Children's Services

Appendix A – Type 1 Trespass Letter

<Date>

<Name>

<Address>

Dear Sir/Madam:

Notice of Trespass Letter

As a result of events that took place at *(Name and Address of School)*, the Lambton Kent District School Board has deemed it necessary under the circumstances to provide you with this letter. This letter will serve notice that you, as an individual, are hereby prohibited from attending on the property and premises of *(School Name)* and is given pursuant to the Trespass to Property Act (R.S.O. 1990) and under the authority granted to the writer under the Education Act (R.S.O. 2000).

If you should visit this school or campus, or come upon the property, you will be considered a trespasser and liable to such penalties as may be provided by law, including arrest and applicable fines. Please note that this letter also excludes you from entering the school after hours for community usage of our facilities.

A copy of this letter is being sent to the *(Name of Municipality)* Police Service for their information and attention. The *(Name of Municipality)* Police Service are hereby authorized to act as agents on behalf of the Lambton Kent District School Board to proceed unilaterally with any applicable charges under the Trespass to Property Act, as they deem appropriate in the circumstances.

This notice will remain in effect until further notice. Sincerely,

Principal
(School Name)

cc: *(Name of Municipality)* Police Service
cc: Community Use of Schools Coordinator

Appendix B – Type 2 Trespass Letter

Date

<Name>
<Address>

Dear Sir/Madam:

Notice of Trespass Letter

As a result of events that have taken place at *(Name and Address of School)* , the Lambton Kent District School Board has deemed it necessary in the circumstances to provide you with this letter, which will serve as notice that you, as an individual, are hereby prohibited from attending on the property and premises of *(School Name)* and is given pursuant to the *Trespass to Property Act* (R.S.O. 1990) and under the authority granted to the writer under the *Education Act* (R.S.O. 2000).

Should you again enter the above mentioned premises or property, without the written authorized consent of _____(Superintendent of Education with the Lambton Kent District School Board), you will be dealt with to the fullest extent according to law. Please note that this also excludes you from entering the school after hours for community usage of our facilities.

I would ask that you contact _____, Superintendent of Education, should you wish to deal with any aspect of this matter, including to make arrangements to discuss your child's/children's progress at school.

This notice will remain in effect until June 30, *(Year)*, at which time you will be contacted by me to discuss your possible re-entry into the school next school year.

Please govern yourself accordingly.

Sincerely,

Principal,
(School Name)

cc: *(Name of Municipality)* Police Service
cc: Superintendent of Education
cc: Superintendent of Human Resources
cc: Community Use of Schools Coordinator