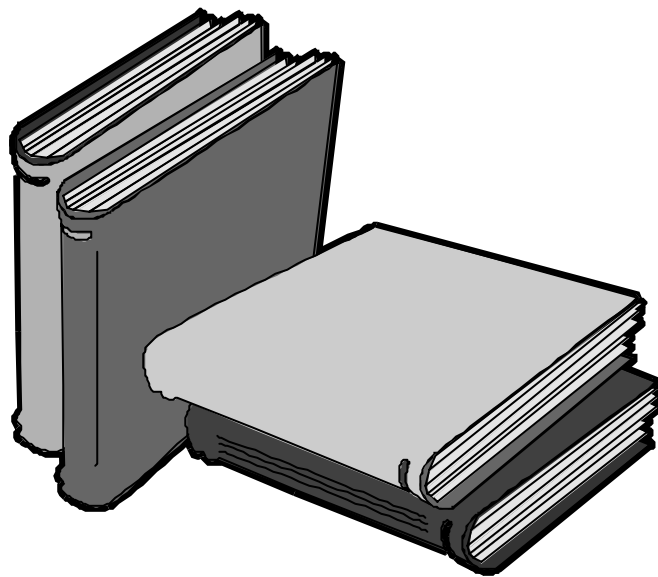


# **Guidelines**

# **Family Law and the School**



ACT Department of Education & Community Services

1998

## **GUIDELINES - FAMILY LAW AND THE SCHOOL**

**We gratefully acknowledge the  
New South Wales Department of School Education  
for permission to use material from their document,  
*Family Law and the School.***

***This document is intended as a general guide for staff in the ACT Department of Education & Community Services to assist them in undertaking their duties. The contents do not constitute legal advice and is not to be relied upon as such. Formal legal advice should be sought in particular matters.***

# CONTENTS

<b>1. Introduction</b>	<b>4</b>
<b>2. General principles of the new legislation</b>	<b>4</b>
<b>3. Definitions of commonly used terms</b>	<b>5</b>
<b>4. Parents' rights in respect of access to school documents</b>	<b>6</b>
Access to teachers and other information	7
<b>5. Parents' rights to participate in school activities</b>	<b>8</b>
<b>6. What to do if parents deliberately breach Court Orders</b>	<b>8</b>
<b>7. Other Court Orders</b>	<b>10</b>
Apprehended violence orders and domestic violence orders	10
Bail conditions and good behaviour bonds	10
<b>8. Miscellaneous Matters</b>	<b>11</b>
Enrolment of students	11
Changing the name of students in school records	11
Access to information regarding the location of students	12
Requests for teachers to give evidence in family law proceedings	13
Attendance of police at schools	13
<b>9. Common Questions Asked By School Staff</b>	<b>13</b>

# 1. Introduction

- 1.1 Schools were issued with the department's policy, *Custody Cases: Implementation Guidelines* in March 1985. The following guidelines replace that policy.
- 1.2 Significant changes have been made to the *Family Law Act* by the *Family Law Reform Act, 1995*. The new Act abolishes the old concepts of custody, guardianship and access and replaces them with the concept of parental responsibility and terminology involving residence orders, contact orders and specific issues orders.
- 1.3 These new guidelines have been designed to reflect the changes introduced by the 1995 legislation and to assist staff in dealing with problems that arise at the school. They are by no means a complete summary of all aspects of the law relating to family relationships but they should cover the majority of situations that will confront staff in their daily activities.
- 1.4 If a problem that does arise is not covered by these guidelines or if staff are unsure of their position in a particular matter, then contact should be made with the department's Industrial & Legal Section, telephone 620 59149 or facsimile 620 59146.

# 2. General principles of the new legislation

- 2.1 The object of the new law is to ensure that children receive adequate and proper parenting to help them achieve their full potential and to ensure that parents fulfil their duties and meet their responsibilities concerning the care, welfare and development of their children.
- 2.2 Except where it is or would be contrary to a child's best interests, there are four principles which apply:
  - (i) children have the right to know and be cared for by both their parents regardless of whether their parents are married, separated, have never married or have never lived together;
  - (ii) children have a right of contact, on a regular basis, with both their parents and with other people significant to their care, welfare and development;
  - (iii) parents share duties and responsibilities concerning the care, welfare and development of their children;
  - (iv) parents should agree about the future parenting of their children.
- 2.3 Whether or not court orders have been made, each parent has a parental responsibility towards their children which means they have the right to participate in decisions that affect their children.

- 2.4 Unless either parent's parental responsibility is restricted by a court order (including a registered parenting plan), it can be presumed that each parent is entitled to act alone and without the other in meeting their parental responsibility in respect of their child.

### 3. Definitions of commonly used terms

- 3.1 **Contact order** is an order made in favour of a person that allows that person to have contact with the children named in the order. Contact orders can be subject to conditions.

**Interim order** is a temporary order made by a court, generally in urgent circumstances. It remains in force until the court makes a final order in respect of the matter.

**Injunction** is an order regulating the behaviour of a person and can be directed to various aspects of the family relationship. Usually injunctions restrict the interaction one parent may have with another but they may also restrict interaction with a child.

**Location order** is an order made by the court requiring a person named in the order to provide information to the Registrar of the court concerning the location of persons named in the order.

**Parenting order** is an order made by the court dealing with issues of contact, residence, maintenance or any other aspect of parental responsibility.

**Parenting plan** means an agreement in writing between the parents of a child that deals with issues of contact, residence, maintenance or any other aspect of parental responsibility.

**Parental responsibility** means all the duties, powers, responsibilities and authority which by law parents have in relation to their children.

**Recovery order** is an order made by the court requiring a person to return a child to a person or persons named in the order.

**Residence order** is an order made by the court that directs with whom a child is to live.

**Specific Issues order** is an order made by the court dealing with any aspect of parental responsibility for a child other than contact, residence or maintenance.

- 3.2 During the period 1983 to 10 June 1996, courts made orders dealing with family breakdown in terms of custody, guardianship and access. Custody referred to the day to day care and control of a child, guardianship referred to the long term interests and responsibilities in relation to the child and access referred to the time spent by the noncustodial parents with the child.
- 3.3 As a result of the 1995 legislation these old terms have the following meanings:

- (i) custody has the same meaning as a residence order coupled with parental responsibility for the day to day care of the child.
  - (ii) guardianship has the same meaning as parental responsibility for the long term care of the child.
  - (iii) access has the same meaning as a contact order.
- 3.4 Pre 1983 orders made by the court will often refer to one parent having "care and control" and the other parent having "custody". The term "care and control" will have the same meaning as "custody" as outlined in 3.3 while "custody" will have the same meaning as "guardianship" as outlined in 3.3.
- 3.5 In order to avoid any confusion when dealing with families subject to family breakdown, principals are to request that a copy of *any* orders made by the court be provided by the parents or any other person seeking to rely on an order. If orders are subsequently varied by the court, copies of any new orders should also be requested and kept with the student records.
- 3.6 The department's student enrolment form asks that any current court order (including a registered parenting plan) which limits contact between a student and a parent or any other person be provided. Reminders can also be included in school newsletters from time to time.
- 3.7 Schools should ensure that appropriate procedures are in place to ensure that unauthorised disclosure or access does not occur.

## **4. Parents' rights in respect of access to school documents**

### ***School reports, student photographs and other documentation***

- 4.1 In many instances parents who have separated will both still seek to play an active part in the education of their children. Often a parent will not agree that the other has a right to participate in or receive information about their children's education.
- 4.2 In the absence of a court order, each parent has equal rights in respect of their children (Refer also to paragraph 4.9.).
- 4.3 Where one parent has a residence order, school reports are to be provided to that parent. If the parents have separated but no orders have been made by the court, reports are to be forwarded to the parent with whom the child is living.

- 4.4 If the parent the student is not living with requests copies of school reports, they are to be provided. Principals may but are not obligated to send the school reports until requested by that parent. If reports are sent to a non-residence parent, principals should ensure that address details of the student are not included in any documentation sent.
- 4.5 If a court order is made that denies parental responsibility for the long term care of a child or gives sole control of educational matters to one parent, the other parent is not entitled to any documentation or information about their child's education from the school.
- 4.6 The same procedures as outlined in paragraphs 4.3 to 4.5 apply in respect of requests by parents for copies of student photographs and other miscellaneous documentation relating to students and their activities at school. In determining what information can be given to a parent with whom the student is not residing, principals should provide any information that would ordinarily be sent to the parent with whom the student resides.
- 4.7 Whilst principals may ask non-residence parents to contribute to the costs of forwarding school reports, it should be stressed that any contribution is purely voluntary. Provision of the reports must not be denied on the basis that a contribution has not been made.

### ***Access to teachers and other information***

- 4.8 Parents who seek access to teachers to discuss the progress of their children are not to be denied such access merely because the children do not live with them. Unless a court orders otherwise, parents are entitled to have access to teachers so as to be able to make informed decisions about the educational needs of their children.
- 4.9 Where parent/s request access to their child's records and/or to teachers and the child concerned has left home or is independent of his or her parents and has indicated that they do not wish this to occur, staff are to contact the Industrial & Legal Section for further advice.
- 4.10 If a parent seeks to deny the other parent access to school documentation or to teachers and relies on an agreed parenting plan drawn up between the parties, the plan has no legal status under the *Family Law Act* if not registered with the Court. In the absence of registration by the Court, parents cannot rely on a parenting plan. If a person seeks to rely on the terms of a parenting plan to enforce an issue, principals are to ask to see a copy of the registered plan at least to the extent that the plan relates to the issue concerned.

- 4.11 Persons other than parents (eg. grandparents) may from time to time seek access to school documents relating to children at the school. Similarly, non-residence parents and other persons may wish to deliver birthday cards, presents or other material to children via the school. While the use of the school for these purposes should generally be avoided, principals may exercise their discretion in determining whether or not any such request will be met. Principals should use their judgement based on knowledge of the relationship of the persons involved and attitude of the children.

## **5. Parents' rights to participate in school activities**

- 5.1 Where court orders have not been made, both parents may attend school organised activities. Where there have been court orders, parents should not be excluded from these activities unless subject to a specific order that would make their attendance inappropriate.
- 5.2 Principals should, however, have regard to any known history of animosity between the parents before deciding whether both parents should participate at the same time in the school activity. A primary concern should always be the prevention of disputes which will effect the efficient operation of the school.
- 5.3 Principals should make reasonable attempts to arrive at a compromise position so that both parents can actively participate. Extensive periods of time should not be spent in trying to arrive at a compromise nor should principals act as conciliators in family disputes. Principals should use their judgement based on knowledge of the relationship of the parents, attitudes of the children and the educational importance of the activity under question in determining what compromise may be appropriate to pursue.
- 5.4 If principals are aware of an order of any court that prohibits a parent having contact with their children, then that parent is to be denied the right to participate in the school activity if those children will be present.

## **6. What to do if parents deliberately breach Court Orders**

- 6.1 It cannot be stressed too highly that it is not the department's role to act as adjudicator in disputes between parents in family law matters.
- 6.2 If a parent insists on exercising rights outside the scope of any court order at school, every effort should be made to persuade the parent in breach not to pursue the course of action intended.

- 6.3 If the parent continues to insist on exercising rights outside the scope of any court order at the school, the parent is to be informed that they are to leave or the police will be called. If they still refuse to leave, police are to be called and asked to deal with them as a trespasser. This could involve arrest and subsequent court appearance (Refer also to paragraph 6.9.).
- 6.4 If there are no court orders, then each parent still maintains parental responsibilities and is entitled to visit the school and seek to talk to the principal and teachers about their child's education and to participate in all activities in which parents are normally involved. It is only when a parent causes a disturbance or upsets the school's routine or refuses a reasonable request to leave that a principal is to act to exclude that parent from the school. Principals are advised to inquire of the parent at the school if the other parent is aware of the intended course of action. If they are not, the parent at the school should be encouraged to contact the other parent to come to an agreement.
- 6.5 If the parent is not persuaded to return at the end of the school day or to contact the other parent, the principal is to advise him or her that contact will be made with the other parent. The parent at the school is to be requested to refrain from doing anything until the other parent is contacted and has an opportunity to agree to the course of action proposed.
- 6.6 When making contact with the other parent, principals are to advise them of the circumstances and that in the absence of a court order, there is no option but to allow the parent at the school to exercise his or her rights unless an agreement to the contrary can be reached.
- 6.7 If agreement cannot be reached, principals are to allow the parent at the school to exercise his or her rights in respect of the child or children.
- 6.8 It is important to remember that under no circumstances are principals to allow themselves or other staff to be placed in a position of danger when trying to resolve any problems that may arise. No attempt should be made to physically prevent any parent from exercising their rights, legitimate or otherwise, by any member of staff. If parents abuse staff or use or threaten physical violence towards staff, police should be called immediately.
- 6.9 Some principals have been appointed as authorised officers under the *Crimes (Offences Against the Government) Act 1989* with the ability to direct persons to leave school premises in certain circumstances. Appropriate guidelines have been issued to principals so appointed.

## 7. Other Court Orders

### ***Apprehended violence orders and domestic violence orders***

- 7.1 Domestic violence orders issued under the *Domestic Violence Act* 1986 and apprehended violence orders issued under the *Magistrates Court Act* 1930 or the *Crimes Act* 1900 (commonly referred to as restraining orders) can severely restrict the access and contact one parent has with another parent and or children of the relationship. Orders will often prevent one parent from approaching, harassing or contacting the other parent or children and may even include provisions that prevent any approach being made to a school or other place where the other parent or children may be.
- 7.2 Unlike family law orders, domestic violence orders carry criminal sanctions if persons subject to the orders breach them.
- 7.3 Where a parent subject to a domestic violence order is seeking to locate his or her children and/or spouse, no information is to be provided without first seeking the approval of the other parent.
- 7.4 If an order is made that prevents a person from approaching or attending a school and staff become aware that the order is being breached, the principal may contact the police and inform them of the breach. Contact should also be made with the other party to the order to advise them of any action taken.
- 7.5 If the circumstances do not warrant immediate contact with the police, principals may still contact the other party to the order and advise them of any breach that has taken place. That party can then, if they so desire, contact the police about the breach.
- 7.6 In exercising the discretion under paragraph 7.4, principals must bear in mind that when police become aware that a domestic violence order has been breached, they may arrest the offender immediately without the need of a warrant and convey him or her to the nearest court to be dealt with. Therefore, principals should exercise the discretion only in those cases where there is a real concern for the welfare of students or the protection of staff or departmental property.

### ***Bail conditions and good behaviour bonds***

- 7.7 While cases are pending completion by the court, persons can be required to adhere to various conditions of bail. Bail conditions can be widely different and may be similar in terms to those available under the apprehended violence legislation.
- 7.8 Courts are also empowered to place persons on good behaviour bonds following the completion of cases. These bonds may restrict the activities of persons and they can include conditions similar to those available under the apprehended violence legislation.

- 7.9 If principals become aware of breaches of bail conditions or good behaviour bonds, they are to deal with such matters in the same way as outlined in paragraphs 7.3 to 7.5.

## **8. Miscellaneous matters**

### ***Enrolment of students***

- 8.1 Normally the parent or adult enrolling a child at a school has the day to day care and control of that child or has the authority of the person who has the day to day control of the child, to enrol that child.
- 8.2 There may be instances where a parent or other adult, who does not have the day to day care and control of that child, seeks to enrol that child. For example, the child may have been taken without authority by the parent who does not have the day to day care and control of the child. That parent may then seek to re-enrol the student at another school.
- 8.3 While this happens very rarely, where a person enrolling the student has some doubts about the authority of the person to enrol the student, they should make further discrete inquiries of the person enrolling the student or elsewhere where appropriate. If they still remain unsatisfied they should contact the Industrial & Legal Section.

### ***Changing the name of students in school records***

- 8.4 Frequently, when a family break up occurs, the parent the child is living with will want to use a new name for the child. This may be contrary to the wishes of the other parent who may or may not retain parental responsibility for the child.
- 8.5 Provided it is not for the purpose of fraudulent activities, a person can be known by any name they wish and the exclusive use of the new name is all that is required to effect the change. Contrary to popular belief, a deed poll does not of itself change a person's name it is merely evidence of the change in the name.
- 8.6 The student record card must indicate the birth certificate name of the student. It is this name under which the student is officially enrolled. If however one of the following conditions apply, principals can enrol students under an alternative name or change existing records to indicate the new name:
- (i) a signed consent from both parents indicating approval to use the new name is provided;
  - (ii) a court order is provided authorising the use of the new name;
  - (iii) a statutory declaration is provided by the enrolling parent indicating that the child has had no contact with the other parent for a period of five years and his or her whereabouts is unknown;

- (iv) a signed consent from one parent and proof that the other parent is deceased. This can take the form of a statutory declaration by the enrolling parent or a death certificate;
- (v) a birth certificate issued in the new name;
- (vi) proof of adoption.

Where one of the above conditions cannot be met then no change of name is to be made and the parent requesting the name change is to be informed that no change will be made until one of the conditions can be met.

- 8.7 If having taken action in accordance with paragraph 8.6, principals are confronted by a parent who is not happy with their children being known under another name, the parent is to be advised that a further change will only be made if there is a court order or agreement of both parents.
- 8.8 There will be students who are currently known by names other than that which appear on their birth certificates as a result of action taken in accordance with the previous guidelines. If a parent indicates they are not happy with that situation, he or she should be advised that a further change will only be made if there is a court order or agreement of both parents.

### ***Access to information regarding the location of students***

- 8.9 Principals may be requested to provide address details of students who are or were enrolled in their school. These requests may come from parents who are separated and are trying to locate their families or from solicitors, private inquiry agents, police officers or by virtue of a court order. If any request for such information is received, the following action should be taken:
- (i) From parents - confirmation can be given that a child is enrolled in a particular school. Address details of the student, if known, are not to be given. If the parent seeking the information does not have parental responsibility for the child, no information should be provided. Note also paragraphs 4.9 and 7.3.
  - (ii) From solicitors/private inquiry agents - if acting for a parent of a child, confirmation that the child is enrolled in a particular school can be given provided a signed authority from the parent for whom they act is provided and that parent retains parental responsibility for the child. In the absence of the signed authority, no information should be given. Note also paragraphs 4.9 and 7.3. *Schools are reminded that requests from solicitors or their agents are to be referred to the Industrial & Legal Section for coordination of a response.*
  - (iii) From police - if police are conducting criminal investigations and the address is essential for the conduct of those investigations, address details can be given. Similarly, if police are attempting to execute a warrant or recovery order, address details can be given. Refer to paragraphs 8.13 - 8.15.

- (iv) From Family Services - if officers are conducting investigations concerning the welfare of the student and the address is essential for the conduct of those investigations, the details can be given.
- (v) By virtue of a location order - if served with a location order issued by the Family Court, the details sought in the order must be provided in accordance with the terms of the order.

8.10 Principals should confirm the identity of any person requesting information prior to releasing any details. Information should not be provided over the telephone unless the identity of the caller is absolutely verified. *Staff are reminded to seek advice from the Industrial & Legal Section before taking any action where they are unsure about how to respond to a particular matter.*

### ***Requests for teachers to give evidence in family law proceedings***

8.11 Teachers may be asked by parents involved in family law proceedings to provide written statements or affidavits regarding the performance of children at school. These requests may involve not only details about academic progress but also comments about the behaviour and appearance of the children. *Staff should seek advice from their supervisor or the Industrial & Legal Section regarding the preparation of statements for parents. Such statements can be reviewed by the Industrial & Legal Section on request.*

8.12 The provision of these affidavits or statements is a matter for the discretion of individual teachers. Teachers should be aware that they cannot be forced to provide the information requested if they do not wish to do so. Though assurances will frequently be given to teachers that if an affidavit or statement is provided they will not be required to attend court, there is no guarantee that a court appearance will not still be necessary.

8.13 If teachers consider it appropriate to provide an affidavit or statement as requested, comments are to be restricted to those able to be made from the direct observation or hearing of the person making the affidavit or statement.

8.14 Sometimes requests may be received from persons who are acting on behalf of children in contested Family Court proceedings between parents. Teachers should be aware that the best interests of the child is always the Family Court's primary concern and any request made on behalf of children independently represented in Family Court proceedings should receive a high level of cooperation.

8.15 If teachers decline to provide an affidavit or statement, the party requesting the information may still issue a subpoena to require attendance at court. *Staff are reminded to contact the Industrial & Legal Section when they are served with a subpoena to produce documents and/or to appear in court.*

## ***Attendance of police at schools***

- 8.16 Police may sometimes attend a school with warrants or recovery orders issued by a court for the return of children who may be enrolled at the school. Principals should view the details of the warrant or order, check the details referring to the child provided by the police and then assist the police in fulfilling their obligations under the warrant or order. This may mean allowing the police to remove children from the school or advising them of their location if they are not at school.
- 8.17 Provided the police have a warrant or recovery order, this assistance should be provided irrespective of any objections that may be made by the children concerned. Principals should confirm the identity of the police prior to allowing them to take any action in accordance with the warrant or recovery order.
- 8.18 If police do attend in such circumstances, principals and staff should act with sensitivity and regard for the dignity of the children subject to the warrant or recovery order and for the well being of other children at the school.

## **9. Common questions asked by school staff**

- 9.1 The following questions are indicative of the most common situations that arise in school subsequent to family breakups. It is not intended to represent an exhaustive list of all possible scenarios but may serve as a useful guide for staff when dealing with these types of problems.
- 9.2 Should schools encounter a situation not covered by the information contained in these guidelines or if they are unsure about how to deal with any given situation, they should contact the **Industrial & Legal Section of the department, (telephone 620 59149, facsimile 620 59146)** for appropriate advice.
- Q. ***What documents are essential to establish parentage and or parental responsibility/residence/contact?***
- A. A birth certificate and or court order.
- Q. ***Do letters from solicitors have any legal effect in respect of parentage and or parental responsibility/residence/contact?***
- A. No.
- Q. ***If a very old Family Court order is presented, can it be relied upon?***
- A. In the absence of any knowledge of a later order, yes.

- Q. ***If a parent says there is a new court order in existence and gives details but does not provide a copy of the order; what action should I take?***
- A. Advise the parent that unless a stamped copy of the new order can be provided, you will have no option but to rely on the old order.
- Q. ***Is it only natural parents who are granted parental responsibility/ residence/contact or other parenting orders?***
- A. No. In some circumstances other people including grandparents and siblings are granted these rights.
- Q. ***If an order allows contact during school time, am I required to allow contact whilst the child is at school?***
- A. There is no compulsion to do so. Generally, schools are not an appropriate place for contact but it can be allowed provided it does not disrupt the school routine and the child in question agrees to see the parent. Preferably, any such contact periods should be exercised during the recess or luncheon breaks. As a matter of courtesy, the residence parent should be advised if contact is to occur (See paragraphs 6.4 - 6.7).
- Q. ***If a person rings the school saying they are the parent of a child attending the school and seeks information about the child, what information can be provided?***
- A. Generally, information should not be given over the phone. Unless you are absolutely sure of the identity of the caller, ask the person to attend in person and once satisfied of their identity, information about the child's performance at school can be discussed subject to any court orders restricting rights in this regard. Under no circumstances should the address of the child or the residence parent be revealed (See paragraphs 7.3 and 8.9.).
- Q. ***Can a non-residence parent with no contact or limited contact rights be used as a volunteer in the school?***
- A. The non-residence parent should not automatically be denied the right to participate in such activities. If the voluntary work will result in a breach of any contact order made by the court, the request to participate in the activity should be denied. If the voluntary work does not necessarily breach any such order then if the residence parent agrees to the request, every effort should be made to accommodate the non-residence parent. If, however, consent is not forthcoming from the residence parent and it can reasonably be predicted that the presence of the non-residence parent in the school will lead to confrontation, participation in the activity should be denied (See paragraphs 5.2 - 5.4.).
- Q. ***If there is a shared residence arrangement which parent receives reports/notices and signs permission/absentee notes?***

A. In both instances it is the parent with whom the child lives during the week. If the child lives with each parent at different times during a school week then the parents should be asked to agree between themselves as to who should receive reports and give consent in respect of the child.

Q. ***While there are no court orders in place I know (from what one parent has said or from personal observations) that the family has broken up and the child lives with one parent as the other parent is violent or alcoholic***

(i) ***If the violent or alcoholic parent contacts the school can I refuse contact with the child or access to the teacher/ information?***

A. No, although contact with the child should be with the child's consent and taking into consideration the safety and welfare of the child. Address details are not to be given and any contact with the child or access to teachers or information should be at the school's convenience and not cause disruption to the school routine (See paragraphs 6.4 - 6.7 and note also paragraph 7.3.).

(ii) ***If the violent or alcoholic parent wants contact information for the other parent or wants to know where they live (for a justifiable reason) can I provide such information?***

A. No. Whether the parent is violent or alcoholic is irrelevant. Address details are not to be given (See paragraph 8.9.).

(iii) ***If the violent or alcoholic parent arrives at the school intending to take the child away can I prevent this?***

A. In the absence of a court order, no. However, the safety of the child should always be considered in such circumstances. An attempt should be made to contact the other parent and have them resolve the dispute outside the school environment (See paragraphs 6.6 - 6.7.).

(iv) ***If the violent or alcoholic parent arrives at the school during an open/public day, not causing any trouble but causing distress to the other parent, can I require the violent or alcoholic parent to leave?***

A. If the parent is not causing any trouble there is no basis to ask them to leave.

Q. ***What documents are essential to establish a child's name?***

A. Birth certificate, bank accounts, passport, parents' Medicare card or other similar documents which indicate the name.

Q. ***If an application for enrolment has a different name to that on a birth certificate what name should the child be enrolled under?***

- A. If the criteria for changing a student's name are met, the name on the application for enrolment documentation can be used, otherwise the birth certificate name must prevail (See paragraphs 8.4 - 8.8.).
- Q. ***If a birth certificate has a different name to that on a passport, what name should the child be enrolled under?***
- A. If the criteria for changing the student's name are met, the passport name can be used, otherwise the birth certificate name must prevail (See paragraphs 8.4 - 8.8.).
- Q. ***If there is no birth certificate or other document establishing birth name what can be accepted by the school to enrol a child under a particular name?***
- A. A statutory declaration by the enrolling parent giving details of why the birth certificate is not available and indicating the name to be used for enrolment purposes.
- Q. ***Is there a difference between changing one's name and being "known as"?***
- A. Yes. It is possible to officially change the name on your birth certificate provided certain criteria are met.
- Q. ***If I am aware that a parent will be seeking parenting orders and the parent contacts the school to discuss their child's progress or behaviour (with what I believe to be the intention of getting evidence for the court hearing) can I or my staff refuse to see the parent?***
- A. If the parent would ordinarily be entitled to meet with you or your staff to discuss the matters they want to talk about, contact should not be refused unless the parent is unwilling to attend at a time convenient to the school. The information that normally be provided to parents should be given (See paragraphs 4.4 - 4.6 and 4.9.).
- Q. ***If a parent or a solicitor asks me or my staff to prepare a report about a child am I or my staff in a position to do this? What would be the result of such a report?***
- A. If you or a member of your staff have personal knowledge of the matters required for the report, you may prepare the report. It is not compulsory to do so - it is entirely a matter for you or your staff member. The report, if prepared, may be used in the court proceedings and you or your staff member may be called upon to attend court and answer questions in relation to its contents. Accordingly, the report should only be prepared by someone with direct, personal knowledge of the child (See paragraphs 8.11 - 8.15.).
- Q. ***Does it make any difference if it is a solicitor who is acting for the child who requests the report?***

A. Yes. In such circumstances, it is recommended that every assistance be provided in the interests of the child.

Q. ***If a parent asks me or one of my staff to go to court do we have to go?***

A. No, unless a subpoena is served (See paragraph 8.15.).

Q. ***What is a subpoena? Do I have to obey a subpoena?***

A. A subpoena is a formal court order requiring the attendance of a person at court to give evidence, to produce documents or to do both. If served with a subpoena, you must attend the court or produce the documents requested. Failure to do so may result in the court issuing a warrant for your arrest (See also paragraph 8.15.). *Staff are reminded that subpoenas are to be referred to the Industrial & Legal Section for processing.*

Q. ***If a subpoena requires documents to be produced do I have to:***

(i) ***Provide originals?***

A. Technically yes, though in most cases clear photocopies will be acceptable. If in any doubt, the Industrial & Legal Section will contact the party who has had the subpoena issued and confirm that copies of the documents sought will be satisfactory.

(ii) ***Take them to court personally?***

A. No. They can be posted to the court office so long as they are posted in sufficient time to reach the court prior to the hearing date. If the person subpoenaed is required to produce documents and give evidence, it is often easier to take the documents to court and produce them when called. *Subpoenas are to be referred to the Industrial & Legal Section for processing.*

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