




POLICY	 SPW EARLY LEARNING AND PRIMARY EDUCATION
Title: Custody	
Authorised by: Principal	Page Number: 1 of 8
No.: PRIN-51	
Issue Date: October 2019	
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Custody Policy

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1 RATIONALE

St Peter's Woodlands Grammar School (SPW) acknowledges that students come from a range of family backgrounds and parenting situations. Some students' parenting and living situations are bound by court orders or other formal documents. Such documents may include statements which cover who the child lives with, listing adults who may or may not collect or interact with the child, or state who is responsible for making decisions in relation to the child's education and welfare.

SPW is committed to the safety and security of all children and young people, regardless of their age, culture, beliefs, socio-economic circumstances, disability, family living situation, child rearing practices, or educational level. While issues relating to the custody of children are often emotionally charged, the School will manage custody related issued in accordance with the law.

2 PURPOSE

This Policy aims to:

- Develop and implement clear and responsible processes for managing custody-related issues at a school level
- Clearly articulate the School's processes relating to the management of custody issues to parents

3 DEFINITIONS


The Family Law Act: makes clear that both parents are responsible for the care and welfare of their children until the children reach 18, and there is a presumption that arrangements which involve shared responsibilities and cooperation between the parents are in the best interests of the child.

Parenting Plan: A parenting plan is a written agreement that sets out parenting arrangements for child/ren. The plan is worked out and agreed jointly, and the parents/caregivers do not need to go to court. Unless a court orders otherwise, the parents/caregivers can agree to change a parenting order by entering into a parenting plan. A parenting plan is not a legally enforceable agreement. It is different from a parenting order, which is made by a court.

Consent Order: A consent order is a written agreement that is approved by a court. Usually these are made when the parents/caregivers agree about arrangements for the children. A consent order can cover parenting arrangements for children as well as financial arrangements such as property and maintenance. Consent orders have the same legal effect as if they had been made by a judicial officer after a court hearing. The Court must be satisfied that the orders asked for are in the best interest of the child. Breaching a consent order may be punishable under the law.

Parenting Order: A parenting order is made when the parents/caregivers cannot agree on the arrangements for the children and apply to the court to decide. When a court makes a parenting order, the Family Law Act requires it to regard the best interests of the child as the most important consideration. The Family Law Act focuses on the rights of children and the responsibilities that each parent has towards their children, rather than on parental rights. The Act aims to ensure that children can enjoy a meaningful relationship with each of their parents, and are protected from harm. Breaching a consent order may be punishable under the law.

Court Order: A court order is a term which covers both consent orders and parenting orders.

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Intervention Order: “formerly called restraining orders, intervention orders are put in place in order to restrict the behaviour or actions of a particular person. They are usually granted to protect people from domestic or family abuse. Intervention orders may be first issued as interim orders by either a court or a police officer. They will be heard by a magistrate, who will either confirm the order, vary or substitute the interim order, or revoke the interim order. Once a magistrate has confirmed an order, it doesn't have an end date. To end a confirmed intervention order, it must be revoked by the court. The person restricted by an intervention order is referred to as the defendant. Anyone protected by the intervention order is referred to as a protected person.” *from sa.gov.au (see references)*

Alternate Family: a term used within the school database used when a child is identified as having two families (eg due to separation or divorce). The parent/caregiver with whom the child predominantly resides is listed as the “Family” and shares a residential address with the child. The other parent/caregiver is listed as “Alternate Family” and usually has a different residential address to that of the child. In our Learning Management System, the families are listed as “Family 1” and “Family 2”.

Natural Parents: the child's birth parents, adoptive parents, or legal guardians. This term is used without prejudice.

4 SCOPE

This policy applies to all SPW staff, parents/caregivers, students, School Council, and leadership.

5 IMPLEMENTATION


The Principal has the overall responsibility for implementing this policy, but may delegate certain roles to suitably qualified staff.

5.1 ENROLMENT

- When enrolling a child at SPW whose parents/primary caregivers are not a couple (eg are divorced or separated), it is essential that both parents/caregivers sign the enrolment application form.
- SPW will accept enrolments of children where only one parent/caregiver has been nominated and has signed the application for enrolment form.
- Parents/caregivers are expected to inform the School of the parenting situation, and supply copies of any relevant documents (such as parenting plans, parenting orders, custody orders, or informal agreements).
- Enrolments are to be accompanied by a birth certificate (translated if not issued in English) or similar document which proves a child's name and date of birth.
- SPW will only enrol a child under the name provided on the birth certificate (translated if not in English) or a more recent legally recognised document that details a name change, or by written consent of both legal guardians. This is the name the School will use in all formal records and documents.
- The School will assume a default position that both birth or adoptive parents have equal access to enrolled students unless current court orders or legal documents dictate otherwise.
- Should the family situation change between the signing of the application for enrolment and the child's starting date at SPW, the parents/caregivers (separately and collectively) are responsible for informing the School and providing updated information as relevant.

5.2 THE SCHOOL WILL

- Assume a default position that both parents of a child (birth parents, adoptive parents, or legal guardians) have equal access to the child unless legal documents dictate otherwise.

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- Allow both parents access to school reports, school communication systems, parent interviews, school events and activities, and access to the school grounds unless current court orders or legal documents dictate otherwise.
- Encourage families to work together with the best interests of the child/children at heart and seek legal advice wherever possible.
- In the absence of custody arrangements, both parents/legal guardians will be treated as equal partners in terms of parenting rights and responsibilities.
- Not allow parents who claim custody restrictions but fail to provide documentation, to have their requests met until such time as supporting documentation is provided.
- Invite all families where the parents do not co-habit to meet with the Principal either together or separately.
- Immediately direct parents/legal guardians who have restricted access to students and whose presence at school or requests for information are in breach of court orders or similar legal documents to leave the School.
- Contact the police if an individual refuses to comply with lawful instructions of the Principal (or his/her delegate) when attempting to enforce a court order.
- Comply with court orders or similar legal documents relating to custody and access. The Principal is responsible for enforcing this compliance.
- Inform teaching staff, including relief teachers, where there are custody restrictions for a student.
- Teach protective behaviours to children as part of the curriculum, which will include not leaving the school grounds with anyone but their custodial caregivers or authorised persons.

5.3 PARENTS/CAREGIVERS ARE ASKED

- To inform the School when a family separation occurs, in order that support for the child may be provided and the school database and information system updated.
- To ensure they, as individuals, participate in the school's communication processes in order that they are kept informed as to the life of the School and the child's activities within it.
- To nominate a primary physical residence for the child for the purposes of communication. This will be termed the primary residence, where any physical items mailed to the child will be sent.
- To keep their own personal contact details, and the contact details of any emergency contact persons, up to date at all times. This includes mailing address, email address, and phone numbers.
- To seek personal legal advice wherever appropriate and understand that the School is not able to enforce access restrictions without legal documentation (eg court orders).
- To be aware the School or school staff cannot make formal support of one parent/caregiver over another without legal documentation.
- To ensure current versions of court orders or other legal documents are provided to the School.
- To be aware that step-parents (including parents of parents/caregivers whether residing at the same address or not) do not have the same legal rights as the parents/caregivers and therefore cannot make decisions on behalf of the child, intervene in legal matters, nor access student records.
- To be aware that custody restrictions must be supported by appropriate court orders, parenting plans, or other appropriate documentation, and that the School is unable to comply with any restrictions requested by a parent/caregiver without such documentation.
- To be aware that while we encourage parental participation in the life of the School, parents/caregivers are generally required to depart the school grounds at the beginning of the school day unless acting as a registered volunteer in an arranged activity or attending an organised school event. Parents/caregivers who wish to visit a class room during the school day are asked to arrange such visits in advance with the class teacher.

6 DECISION MAKING

In the absence of legal documentation to the contrary, the School presumes both parents/caregivers share a legal responsibility for the child, including the right to make educational decisions regarding the child. When parents share legal custody, even if they are separated or divorced, one parent can make a decision regarding the student and the School will accept that decision on the student's behalf. This includes (but is not limited to) such areas of school life as:

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- Permission slips for excursions or camps
- Photography/media permissions
- ICT agreements
- Participation in school activities

This principle also applies when the decision making involves additional costs to the family, such as:

- Canberra Tour
- Sports or Arts activities
- Purchase of specialised clothing or similar

If parents/caregivers disagree with each other about a decision involving their child, the School may choose to accept the decision from either one of the parents if the decision is deemed to be in the best interests of the child. If the decision, however, requires both parents' consent, then the School will seek consent from both parents as per the application for enrolment form or any current legal document issued at a later date.

7 ACCESS TO RECORDS AND SCHOOL COMMUNICATION

In the absence of legal documentation to the contrary, the School presumes both parents/caregivers have a legal right to access their child's educational records.


SPW utilises digital communication as its primary method of contact for all families and therefore presume all parents/caregivers will engage in this process to be able to access such communication. Specifically:

- Emails, when used for school newsletters or targeted communication, are sent to both parents. It is the parent's responsibility to ensure the School has the correct email address on file at all times. The school enacts an annual database check ("Family Particulars Form") to prompt parents to check the data the School has on file and update where necessary.
- The school app SkoolBag is the primary method used for communicating general school notices, gathering permission slips for activities, informing parents of upcoming events, and issuing new school policies. All parents/caregivers are able to access SkoolBag and it is presumed that parents do so in order to remain informed about school activities.
- Academic Reports are issued in paper form. Where a child has two families, one copy is handed to the child to take home, and one copy is mailed home to the parent who shares the same residential address. The Alternate Family parent is able to elect whether he/she receives a copy of the Academic Report, and if so requested this will be mailed to the postal address on the school database for that person.
- Parent-Teacher Interviews/Learning Conversations are open to both parents/caregivers unless restricted by a court order of other legal document. The parents are asked to communicate to choose a time when both can attend the interview. If this is not possible, the Alternate Family parent is asked to contact the child's class teacher directly to make a separate meeting time. The process is explained via SkoolBag.
- Unless limited by legal documents to the contrary, if a child becomes sick or injured during the school day, parents/caregivers will be contacted in the order listed on the school database. If the sickness or injury is serious and/or requires ambulance/medical treatment outside the School, then the School will make efforts to contact both parents (residing in South Australia).

8 DATA MANAGEMENT

The School will develop procedures to manage:

- Student Records
- Managing the data of students who have two families
- Managing legal documentation relating to custody of students

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In general, the school database will be managed with the following underpinning principles:

- That in most cases, an individual's data will not be changed without the permission of the individual;
- That permission to change data is to be given in writing;
- That the School will contact both parents/caregivers when a change to a family's circumstances becomes known, requesting confirmation and updated contact details as well as any legal or custody documentation;
- That should one parent not respond to requests for information, the School will manage that individual's data to provide the best care for the child while still maintaining the individual's privacy.

9 BREACHES OF THE POLICY

Breaches of this policy will lead to investigation and action by the Executive Leadership Team and/or the School Council commensurate with the nature of the breach.

10 POLICY REVIEW

This policy will be reviewed every five years as a minimum. The review shall include consultation from AISSA, and with SPW administration and teaching staff.

11 FURTHER INFORMATION

Further information regarding this policy is available from any member of the Executive Leadership Team.

Relevant Legislation

Family Law Act 1975 (Commonwealth)
Children and Young People (Safety) Act 2017 (SA)

Related Policies

PRIN-04 Child Protection
PRIN-06 Communication with Parents
PRIN-09 Attendance
PRIN-11 Enrolments
PRIN-41 Student Records
PRIN-50 Code of Conduct

Related Procedures & Standard Operating Procedures


PRIN-06-02 Family Communication – Multiple/Separated Families
PRIN-51-01-SOP Data Management of Separated Families & Court Orders

Related Forms & Checklists

Form	ENROL-01	Application for Enrolment
Form	ENROL-06	Enrolment Information ELC
Form	ENROL-07	Enrolment Information R-7
Form	ENROL-09	Enrolment Interview ELC
Form	ENROL-10	Enrolment Interview Reception
Form	ENROL-11	Enrolment Information Year 1-7

Related Safe Work Practices & Guidance Notes

Nil

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Related Other Documentation

PARENT INFO SHEET Frequently Asked Questions for Separated Families

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PRINCIPAL (Signature)	DATE