



## Purpose

Schools are occasionally confronted with parents disputing custody of, or access to students who are their children. While such issues are often emotionally charged, the school will manage family disputes sensitively, impartially and in accordance with the law.

This procedure aims to outline a clear and responsible process for managing family custody and student access issues as well as outlining the processes relating to the management of custody issues and family disputes.

## Scope

This procedure applies to all staff employed at Monivae College as well as all parents, guardians, carers or parties to family custody issues and family disputes where an order or parenting plan is in place.

## Legislative Context

- Charter of Human Rights and Responsibilities Act 2006 (Vic)
- Family Law Act 1975 (Cth)
- Family Violence Protection Act 2008 (Vic)
- Children, Youth and Families Act 2005 (Vic)

## Definitions

Term	Definition
Parent	A person that has parental responsibility for a child. This may include a biological parent or another person who has been granted parental responsibility by a court order.
Parental Responsibility	All of the duties, powers, responsibilities and authority which, by law, parents have in relation to children.
Parenting Orders (also known as Family Law Act orders)	Court orders made pursuant to the Family Law Act 1975 (Cth) and may deal with any of the following issues: <ul style="list-style-type: none"><li>• person with whom the child is to live</li><li>• the time a child is to spend with another person</li><li>• communication a child is to have with another person</li><li>• the allocation of parental responsibility</li><li>• any aspect of the care, welfare or development of the child</li></ul>
Family Violence Intervention Orders	Court orders made pursuant to the Family Violence Protection Act 2008 (Vic) that prohibit one family member doing specified actions or behaviours towards another family member or multiple family members.

	Family violence intervention orders do not take away or grant parental responsibility but may impact the ability of a parent to care for or have contact with their child.
Protection Orders	<p>Court orders made pursuant to the Children, Youth and Families Act 2005 (Vic) upon protective intervention by DHHS Child Protection. There are various types of protection orders including:</p> <ul style="list-style-type: none"> <li>• family preservation orders</li> <li>• family reunification orders</li> <li>• care by Secretary orders</li> <li>• long term care orders</li> <li>• permanent care orders</li> </ul>
Parenting Plan	<p>A written agreement between parents that meets all of the following characteristics, in that it:</p> <ul style="list-style-type: none"> <li>• is made between the parents of the child</li> <li>• is signed and dated by the parents of the child</li> <li>• deals with some or all of the following matters: <ul style="list-style-type: none"> <li>○ person with whom the child is to live</li> <li>○ the time the child is to spend with a person</li> <li>○ the allocation of parental responsibility</li> <li>○ any aspect of the care, welfare or development of the child</li> </ul> </li> </ul> <p>A parenting plan can affect parental responsibility even though it is not an order made by a court. It can be made subsequent to a parenting order and can vary the parenting order made by a court.</p>

## **Actions**

The College will assume a default position that both birth parents have equal access to enrolled students at school unless Parenting Orders or other legal documents dictate otherwise.

Likewise, both parents will have access to school reports, newsletters, parent interviews and their children at school unless Parenting Orders or other legal documents dictate otherwise.

## **Roles and Responsibilities**

Parents and carers are expected to provide the College with up-to-date information and documentation relating to relevant court orders or informal care arrangements. The College via the Director of Students will request copies from parents or carers of relevant court orders or evidence of informal care arrangements that are in place, if they are aware of them, and make reasonable enquiries with parents and carers about those orders and arrangements from time to time.

Parents or guardians who claim custody restrictions but fail to provide documentation will not have their requests met until such time as the Parenting Orders or similar legal documents are provided.

The Director of Students will be responsible for ensuring that the College cooperates with all Family Court Orders, Magistrate Court Orders or similar legal documents including informal

arrangements such as Parenting Plans.

### **Receiving Notification of an Order**

The College may be notified of an order via the following means:

- Enrolment Application Paperwork received by the Registrar
- Communication from the Parent received by Reception Staff, Learning Support Officers, Teaching Staff and Student Services Staff.

It is the responsibility of the person receiving the notification to refer the matter including any documentation to the Director of Students immediately.

### **Recording and Communication**

The Director of Students is responsible for retaining a copy of the order and/or other legal documentation and ensuring that the following staff are notified of the order:

- Principal;
- Deputy Principal;
- Reception;
- Registrar; and
- Any other person who may be impacted by the order.

Once notified the following actions will be completed:

- Reception staff will add the order to their student register.
- The Registrar will add a secondary copy of the documentation to the student's file and add a note into the SAS system.
- The Director of Students will add a note into the SIMON system flagging that a court order exists.

Failure to complete the above communications and actions may cause significant issues for the school and should be completed as an immediate priority.

### **Responding to Requests from Parties to the Order**

All requests from parties to or persons affected by the order/s must be directed to the Director of Students.

Where a request is made via phone adequate detail of the request should be captured and forwarded to the Director of Students.

In addition, persons who have restricted access to students, and whose presence at school or requests for information etc are in breach of Parenting Orders or similar legal documents, must be directed immediately to the Director of Students.

### **Refusal to Comply**

The police will be contacted immediately if persons refuse to comply with the Director of Students lawful instructions to obey Parenting Orders or similar whilst at school.

The police will be contacted if a potentially dangerous situation arises, or a protagonist refuses to comply with the Director of Students or other persons instructions to leave the school property.

## **Notification of Order Breach**

The Director of Students will report any breaches of Parenting Orders to the parent or guardian who has legal custody of the child at the time.

## **Informal Carer Arrangements**

When a child's parents are unable or unwilling to care for them, the responsibility often falls on relatives or significant others to take care of the child. Sometimes this care is provided on an informal basis and does not give the carer any legal status over the child or formal recognition as a carer.

In these circumstances, in order to allow these carers to work with the school that the child is attending or seeking to attend, carers should complete an Informal Carer Statutory Declaration. This is a written declaration by the carer that sets out the care arrangements for the child.

An informal carer who has provided the school with a completed Informal Carer Statutory Declaration may make school-based decisions for the child and may access school information ordinarily provided to a parent.

However, it is important to note that, generally, a decision of a parent with parental responsibility overrides any decision made by an informal carer to the extent of any inconsistency.

## **Formal Carer Arrangements**

Where a child is in out-of-home care following an intervention by Department of Health and Human Services (DHHS) Child Protection resulting in a protection order, an 'authorisation' may be issued to the carer in order to enable them to make decisions about the child.

The types of decisions that a carer is authorised to make for the child are specified in the authorisation and will generally include day-to-day decisions about education and routine medical care.

Generally, carers are not authorised to make major long-term decisions for a child, unless DHHS Child Protection have issued a specific authorisation allowing the carer to make decisions about issues of a long-term nature.

Carers are responsible for providing the College with a signed instrument of authorisation and for providing up-to-date information relating to any changes in care arrangements. However, the Director of Students should ask for a copy of this authorisation whenever they are aware a change has been made.

In some circumstances, these orders may grant parental responsibility for major long-term issues or day-to-day decisions for a child to someone other than the natural parent(s) of the child, including the child's day-to-day carer, the Secretary of DHHS, a person authorised under an Instrument of Authorisation by the Secretary of DHHS or the child's permanent care parents.

Where there are protection orders in place, the Director of Students must ensure the school retains a copy of the orders and update the student's records to reflect any impact of these orders on care arrangements or decision-making responsibility for students.

## Forms and Record Keeping

Title	Location	Responsible Officer	Minimum Retention Period
Informal Carer Statutory Declaration	Director of Students – Court Orders File	Director of Students	Permanent

## Review and Circulation

<b>Version:</b>	1
<b>Approved by:</b>	<input type="checkbox"/> Principal <input checked="" type="checkbox"/> Leadership Team <input type="checkbox"/> Governing Authority
<b>Effective Date:</b>	26.05.2021
<b>Review Date:</b>	26.05.2024
<b>Audience:</b>	<input type="checkbox"/> School Community <input type="checkbox"/> Students <input checked="" type="checkbox"/> Parents <input checked="" type="checkbox"/> School Employees

## Promulgation

This policy will be communicated throughout the Monivae College school community in the form of:

- policy library section of the Monivae College intranet.

## Implementation

This policy will be implemented throughout Monivae College via:

- policy library section of the Monivae College intranet.