

## Management of Family Arrangements Policy

**Purpose:** The purpose of this policy is to establish guidelines regarding the collection, management, and disclosure of family arrangement information about a student at Birali Steiner School. It aims to ensure the school's actions and decisions in common family arrangement scenarios fulfil contractual obligations, adhere to legislative requirements, and promote a safe and supportive educational environment.

**Scope:** Students and employees, including full-time, part-time, permanent, fixed-term and casual employees, as well as contractors, volunteers and people undertaking work experience or vocational placements.

**Status:** Authorised **Supersedes:** Family Law Policy V 20221212

**Authorised by:** Principal **Date Authorised:** 25.10.24 **Policy Owner:** Principal

**Review Date:** Every two years **Next Review Date:** Sept 2026

- References:**
- *Australian Education Act 2013 (Cth)*
  - *Australian Education Regulations 2023 (Cth)*
  - *Education (General Provisions) Act 2006 (Qld)*
  - *Family Law Act 1975 (Cth)*
  - *Family Law Regulations 1984 (Cth)*
  - *Privacy Act 1988 (Cth)*
  - Enrolment Contract
  - Enrolment Policy
  - Complaints Policy
  - Code of Conduct for Parents and Guardians
  - Privacy Policy
  - Adapted from the ISQ Management of Family Arrangements Policy Template June 2024

**Definitions:**

This policy adapts the meaning of **'parent'** from the *Education (General Provisions) Act 2006* (s.10), which for the purpose of that Act is defined as follows:

- (1) A parent, of a child, is any of the following persons—
  - (a) the child's mother;
  - (b) the child's father;
  - (c) a person who exercises parental responsibility for the child.
- (2) However, a person standing in the place of a parent of a child on a temporary basis is not a parent of the child.
- (3) A parent of an Aboriginal child includes a person who, under Aboriginal tradition, is regarded as a parent of the child.
- (4) A parent of a Torres Strait Islander child includes a person who, under Island custom, is regarded as a parent of the child.
- (5) Despite subsections (1), (3) and (4), if—
  - (a) a person is granted guardianship of a child under the *Child Protection Act 1999*; or
  - (b) a person otherwise exercises parental responsibility for a child under a decision or order of a federal court or a court of a State;

then a reference in this Act to a parent of a child is a reference only to a person mentioned in paragraph (a) or (b).

**Step-parent** in relation to a child means a person who:

- (a) is not a parent of the child; and
- (b) is or has been, married to or a de facto<sup>1</sup> partner of a parent of the child; and

<sup>1</sup> *Family Law Act 1975* (Cth), s.4AA

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(c) treats, or at any time while married to, or a de facto partner of, the parent treated, the child as a member of the family formed with the parent.<sup>2</sup>

**Guardian** in the context of this policy, is a person who has been granted (whether alone or jointly with another person or persons) guardianship of a child under the law of the Commonwealth or of a State or Territory.<sup>3</sup> A guardian has all the legal powers of a parent. An example of a guardian is a person granted guardianship of a child under the *Child Protection Act 1999* (Qld).

**Parental responsibility** in relation to a child, means all the duties, powers, responsibilities, and authority which, by law, parents have in relation to children.<sup>4</sup> Parental responsibility includes parents making short-term and long-term decisions in a child's life.

**Major long-term issues** are defined in the *Family Law Act 1975* (Cth) to mean issues about the care, welfare and development of the child of a long-term nature, including (but not limited to) issues of that nature about:

- (a) the child's education (both current and future); and
- (b) the child's religious and cultural upbringing; and
- (c) the child's health; and
- (d) the child's name; and
- (e) changes to the child's living arrangements that make it significantly more difficult for the child to spend time with a parent.<sup>5</sup>

**Parenting Plan** When parents agree on the family arrangements for a child, and wish to keep arrangements informal, they can make a parenting plan. Parents can develop the plan themselves or may choose to engage lawyers, mediators and/or advocates to support them through the process of creating the plan. The plan is not required to be considered or approved by a court. If a parent fails to follow a parenting plan, they are not breaking the law as the plan is not legally enforceable, however the other parent may initiate legal proceedings to seek a Parenting Order from the court. The plan must be in writing, made between the parents of the child and signed and dated by both parents.<sup>6</sup>

Parenting plans may deal with the following matters:

- a) the person or persons with whom a child is to live;
- b) the time a child is to spend with another person or other persons;
- c) the allocation of parental responsibility for a child;
- d) if 2 or more persons are to share parental responsibility for a child—the form of consultations those persons are to have with one another about decisions to be made in the exercise of that responsibility;
- e) the communication a child is to have with another person or other persons;
- f) maintenance of a child;
- g) the process to be used for resolving disputes about the terms or operation of the plan;
- h) the process to be used for changing the plan to take account of the changing needs or circumstances of the child or the parties to the plan;
- i) any aspect of the care, welfare or development of the child or any other aspect of parental responsibility for a child.<sup>7</sup>

The person referred to in a parenting plan may include either a parent of the child or a person other than the parent of the child including a grandparent or other relative of the child.<sup>8</sup>

**Consent Order** is a term used to refer to an order made by the Family Court that has been made with the consent of all parties to the proceedings. A consent order is a more formal way for parents to agree in writing about arrangements for

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<sup>2</sup> *Family Law Act 1975* (Cth), s.4(1)

<sup>3</sup> *Family Law Act 1975* (Cth), s.4(1)

<sup>4</sup> *Family Law Act 1975* (Cth), s.61B

<sup>5</sup> *Family Law Act 1975* (Cth), s.4(1)

<sup>6</sup> *Family Law Act 1975* (Cth), s. 63C

<sup>7</sup> *Family Law Act 1975* (Cth), s.63C(2)

<sup>8</sup> *Family Law Act 1975* (Cth), s.63C(2A)

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their child. Where parents agree on arrangements for their child, they can apply to the court for orders to be made by agreement. Consent orders have the same effect as court orders. A parenting plan may be endorsed by the court to become a binding consent order.

**Parenting Order** is a legally enforceable court order that may deal with one or more of the following matters:

- (a) the person or persons with whom a child is to live;
- (b) the time a child is to spend with another person or other persons;
- (c) the allocation of parental responsibility for a child;
- (d) if 2 or more persons are to share parental responsibility for a child—the form of consultations those persons are to have with one another about decisions to be made in the exercise of that responsibility;
- (e) the communication a child is to have with another person or other persons;
- (f) maintenance of a child;
- (g) the steps to be taken before an application is made to a court for a variation of the order to take account of the changing needs or circumstances of:
  - i. a child to whom the order relates, or
  - ii. the parties to the proceedings in which the order is made;
- (h) the process to be used for resolving disputes about the terms or operation of the order
- (i) any aspect of the care, welfare or development of the child or any other aspect of parental responsibility for a child;

The person referred to in a parenting order may include either a parent of the child or a person other than the parent of the child including a grandparent or other relative of the child.<sup>10</sup>

A parenting order may deal with the allocation of parental responsibility for making decisions about major long-term issues in relation to the child.<sup>11</sup> These orders can vary from only one parent being provided with parental responsibility for major long-term decisions, for both parents to share this responsibility equally or one parent having responsibility for only some but not all issues. The order may also include the court's decision as to which parent the child can spend time with, and at what times.

## Principles

- The school has contractual obligations to each person who enrolls a child and who is responsible for payment of the fees.
- The school must comply with legislation requiring communication and the provision of information to each parent of a child enrolled at the school, even where that parent has not signed an enrolment contract.
- The school has a duty of care to take reasonable care for the health and safety of all students while they are in the school's care.
- For the school to fulfil its contractual, legislative and common law duties, it must be aware of and understand current information about family arrangements concerning each student.
- Parents must inform the school of any relevant information about family arrangements and keep this information up to date.
- The school will not become involved in any parenting or family disputes.

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<sup>9</sup> *Family Law Act 1975* (Cth), s.64B

<sup>10</sup> *Family Law Act 1975* (Cth), s.64B(2)

<sup>11</sup> *Family Law Act 1975* (Cth), s.64B(3)

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## Policy

At enrolment, Birali Steiner School will establish the identity of the enrolling student's parents, as far as reasonably practicable.

If a parenting plan, parenting order or other court order is in place, or any other relevant information exists in relation to a child to be enrolled or who is currently enrolled at the school, Birali Steiner School will:

- request a copy of the parenting plan or order, or other relevant information, which will be securely maintained in the student's file, and
- inform relevant staff members of any terms that may inform their exercise of their duty of care and sharing of information about the child.

Over the period the child is enrolled, parents are required to provide written evidence to the school of any changes to any of the documentation that was provided at enrolment.

### **Who has parental responsibility for a child?**

Parental responsibility in relation to a child, means all the duties, powers, responsibilities, and authority which, by law, parents have in relation to children. Each of the parents of a child who is not 18 has parental responsibility for the child, unless a parenting plan, parenting order or other court order changes this responsibility.

The school will assume, in the absence of these plans or orders, that both enrolling parents have parental responsibility for the child they have enrolled.

The school will carefully consider the specific terms of a parenting plan, parenting order or other court order to understand if they affect whether an enrolling parent has parental responsibility for a child. Parental responsibility is not affected by a change in the relationship of the child's parents, for example, by the parents becoming separated or by either or both of them marrying or re-marrying.<sup>12</sup> Parental responsibility may be subject to a court order, removing responsibility from one or both of the parents and granted to another person responsible for the child. A parenting order that deals with the allocation of responsibility for making decisions about major long-term issues in relation to the child may provide for joint or sole decision-making in relation to all or specified major long-term issues.<sup>13</sup>

### **Step-parents**

Step-parents are able to apply to the Family Court for a parenting order as 'other people significant to the care, welfare and development of a child'. These orders would usually be made with the agreement of the biological parents of the child. If a court order is made giving a step-parent parental responsibility, this effectively gives the step-parent all the responsibilities of the biological parents. In these situations, a step-parent may fall within the definition of 'parent' for the purposes of the school's provision of educational reports and parent / teacher discussions because they are a person who exercises parental responsibility for a child under a court order.<sup>14</sup>

It is also possible for a court order to be made enabling a step-parent to spend time and communicate with a child following separation from that child's biological parent.

### **Adoptive parents**

A person's parental responsibility for a child ends on the adoption of the child.<sup>15</sup> The laws and requirements around adoption vary across Australia and based on adoption type. Legal requirements for adoption in Queensland are governed by the *Adoption Act 2009* (Qld). Because an adoptive parent has parental responsibility for the child they are entitled to receive educational reports and be invited to parent teacher discussions about the child. This is because they fall within the meaning of 'parent' under the *Education (General Provisions) Act 2006* (Qld), being 'a person who otherwise exercises parental responsibility for a child under a decision or order of federal court or court of a State'.<sup>16</sup>

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<sup>12</sup> *Family Law Act 1975* (Cth), s.61C(2)

<sup>13</sup> *Family Law Act 1975* (Cth) s.61D(3)

<sup>14</sup> *Education (General Provisions) Act 2006* (Qld), s.10(5)(b)

<sup>15</sup> *Family Law Act 1975* (Cth) s.61E(2)

<sup>16</sup> *Education (General Provisions) Act 2006* (Qld), s.10(5)(b)

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## **Directions to the school about a child's family arrangements**

If a specific parenting plan, parenting order or other court order includes orders or directions about a child's family arrangements, the school will follow these orders or directions. In the absence of such orders or directions:

- If all persons with parental responsibility are parties to the enrolment contract, and do not agree about arrangements for their child, it is the responsibility of those parties to reach agreement about specific directions to provide to the school concerning their child. This agreement should be reached independently of the school. The school will not become involved as the mediator or arbiter in disputes of this kind.
- If not all persons with parental responsibility are parties to the enrolment contract, the school will follow the direction of the enrolling party who has parental responsibility for the child as per the school's contractual obligation to that party.

If a parenting order requires joint decision-making for major long-term issues, the parents are required to consult each other and make a genuine effort to reach decisions jointly. However, if one of the parents provides directions to the school about the education or support for their child, the school is not required to consult with the other parent before acting on the direction. The school can assume from the court orders that the decision has been made jointly.

## **Educational reports**

The school will provide each parent of a child enrolled at the school who has parental responsibility for the child a written report on the educational performance of the student at the school, at least twice a year, if they are known to the school and regardless of whether or not they are an enrolling party. However, the Principal may decide that educational reports must be given directly to the child if the Principal is satisfied it would be inappropriate in the circumstances for a parent to be given the report. For example, the Principal may decide that it is inappropriate for a parent of the child to be given the report if the person is living independently of his or her parents.<sup>17</sup>

## **Parent teacher discussions**

The school will ensure that a parent of a child enrolled at the school who has parental responsibility for the child is given the opportunity, at least twice a year, to discuss the child's educational performance at the school with the child's teachers. This will not apply if the principal is satisfied it would be inappropriate in the circumstances to give the parent the opportunity.<sup>18</sup> For example, if the child is living independently of his or her parents. Where the principal is satisfied it is necessary and appropriate in the circumstances, the school may offer each parent the opportunity to meet with the teachers separately to discuss the education performance of the child.

## **Access to other information about a student**

Other information about the child's enrolment may be provided to either enrolling party if they have parental responsibility, subject to the conditions of the enrolment contract and the terms of any parenting plan, parenting order or other court order. Contact details for the child or one of their parents, including emergency contact details, will not be provided to the other parent without the first parent's consent.

During family disputes, other family relatives may seek information about a child from the school. Without the consent of a parent who has parental responsibility, the school will not provide other relatives with this information. There may be circumstances where the school is required to disclose this information to law enforcement or other entities under relevant laws.

## **Pick-up and drop-off/handover arrangements**

Arrangements for school pick-ups, drop-offs and handovers may be made in a parenting plan, parenting order or other court order, as part of the orders concerning where the child lives or who the child spends time with. If this information is relevant to the school, it will be maintained securely on the student file. The school will ensure that relevant staff are informed and kept up to date of any terms that may affect the exercise of duty of care for the child.

## **School activities and events**

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<sup>17</sup> *Education (General Provisions) Act 2006 (Qld), s.425 and Australian Education Regulation 2013 (Cth), s.59*

<sup>18</sup> *Education (General Provisions) Act 2006 (Qld), s.424*

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The school may restrict a parent's access to school activities and events such as performances, school community events, sporting events, or volunteer opportunities in accordance with a parenting plan, parenting order or other court order or if there is a genuine concern for the health and safety of the child or the school community.

### **Payment of school accounts**

The Birali Steiner School enrolment contract specifies the enrolling parties' obligations for payment of school accounts. Parenting plans, parenting orders, other court orders or other documentation may outline financial arrangements in relation to which party is responsible for the payment of school fees. However, these arrangements are separate from the contractual obligations to the school. Signatories to the enrolment contract are jointly and severally liable for payment of school accounts. The school will not become involved in financial disputes between parents.

### **Other matters**

When communicating with the school, all parents are expected to abide by the school's Code of Conduct for Parents and Guardians.

The school may receive requests for the disclosure of information about a student from its existing written records, for example school reports, attendance records and medical records. Such requests are often received from lawyers of parties to family court proceedings or personal injury proceedings and may be in the form of a court subpoena to produce documents or other form of notice of production under relevant legislation.

Birali Steiner School will not generate new documents upon parental request with the intention of supporting legal disputes or establishing or supporting a legal position in court.

## **Compliance and Monitoring**

The school will keep all relevant documents including parenting plans, parenting orders and other court orders, and records such as emails, records of phone conversations and meetings, letters between parents and the school in student files and ensure these are secure.

Any complaints about the implementation of this policy will be handled through the school's Complaints Policy.