



## **MICHAEL PARK SCHOOL AND KINDERGARTEN MANAGEMENT POLICY**

### **RESPONSIBILITIES IN SHARED DAY-TO-DAY CARE DISPUTES**

#### **Rationale**

To ensure the children of parents / guardians who are in shared day-to-day care dispute are kept in a safe and protective physical and emotional environment, that the rights of parents and other guardians are upheld and fairly provided for by the School, and that any court orders are complied with by the School.

#### **Purpose**

The purpose of this policy and its associated procedures is:

- To provide the School's employees with guidelines and procedures in circumstances where there are issues regarding day-to-day care and contact, in particular while the School has charge of the child.
- To provide parents and other guardians with guidelines on the School's responsibilities regarding guardianship and day-to-day care and contact issues.

#### **Definitions**

For the purposes of this policy and the associated procedures, the following definitions apply:

**"Contact"**, in relation to a child, includes all forms of direct (face-to-face) interaction and indirect interaction (e.g. via phone, email, video calling etc.) with the child.<sup>1</sup> (This has replaced the concept of "access").

**"Day-to-day care"**, (which has replaced the idea of "custody") in relation to a child, means that the person the child lives with on a daily basis is responsible for their wellbeing, getting to school etc. Day-to-day care may be shared by separated parents.<sup>1</sup>

**"Dispute"** is a disagreement or argument between two parties. In relation to day-to-day-care and activities at school, the school may determine that there is a dispute where there is disagreement about ongoing enrolment or participation in curriculum, EOTC or extracurricular activities or support for learning at home, or disagreement about communication and reporting between school and home. Disputes over who should provide day-to-day care (typically when parents separate) are dealt with by the Family Court under the Care of Children Act 2004. The court may appoint a counsel for the child and can make a parenting order to deal with dispute issues.

**"Guardian"** means the person(s) who have responsibility for providing the day-to-day care for a child, and for determining with, or for, the child questions about important matters affecting the child.<sup>1</sup> Important matters include, for example, where and how the child is to be educated, and the child's medical treatment.<sup>1</sup> Mothers are automatically guardians, and fathers are guardians if they are married to the mother, in a civil union with the mother, living with the mother (between conception and birth), or recorded as the father on the birth certificate on or after 1 July 2005.<sup>1</sup> In exercising (or continuing to exercise) the duties, powers, rights, and responsibilities of a guardian in relation to a

child, a guardian of the child must act jointly (in particular, by consulting wherever practicable with the aim of securing agreement) with any other guardians of the child.<sup>1</sup>

**“Lawyer for the child”** means a lawyer appointed by the Family Court to represent the child’s interest in court proceedings relating to care arrangements for the child.

**“Parenting order”** means an order, interim or final, made by the Family Court that sets out who is responsible for day-to-day care of a child and/or who may have contact with the child and when.

**“Parenting agreement”** means an agreement where separated parents or guardians set out their own arrangements for looking after the child(ren). A parenting agreement does not have the status of a parenting order, unless the Family Court makes a parenting order with the same terms in the parenting agreement.

**“School”** means the Michael Park Kindergarten, Junior-Middle School and High School.

### **School responsibilities**

- 1 Unless there is a parenting order to the contrary (for example, court decisions limiting a person’s contact or decision-making concerning a child), both parents (regardless of day-to-day care rights) as guardians are entitled to:<sup>1</sup>
  - (a) A copy of any written report made about the child’s learning and development;
  - (b) Discuss the child’s learning and development with the child’s teacher/s;
  - (c) Be consulted over major decisions affecting the child;
  - (d) Participate in parent consultation groups;
  - (e) See any information routinely made available to parents by the School.
- 2 The School will make reasonable efforts to ensure the above rights of parents/guardians are upheld, unless there is a court order to the contrary.
- 3 Upon enrolment, the School will record the names and details of people who have been forbidden contact with a child, or whose rights to contact are subject to conditions.
- 4 Where a significant matter arises in relation to a child, the School will notify, in the first instance, the parent/guardian who has day-to-day care of the child of the matter. The School will subsequently notify the child’s other parent (or other guardians) of the matter by phone or in writing, unless there is a court order specifying otherwise.
- 5 A parent/guardian may have contact with his or her child while the School has charge of the child unless a court order stating that the parent/guardian is forbidden from having contact is provided to the School.
- 6 The School may restrict and/or prevent a person’s contact with a child while it determines the identity of the person wishing to make contact with that child, including that person’s good faith and/or legal rights with respect to the child.
- 7 The School will comply with any parenting agreement, parenting order or other court order or direction unless notified that such arrangements have changed or no longer apply.<sup>2</sup>
- 8 Where there is a dispute between parents/guardians over decisions on important matters affecting the child, and whether there is a parenting order in place or not, the School is not legally able to become involved in or mediate the dispute. Where appropriate, the School will interact with the lawyer for the child, in accordance with the associated procedures.

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<sup>1</sup> Education and Training Act 2020, s 237. See also Early Childhood Services Regulations.

<sup>2</sup> The School is required to comply with parenting orders. It is an offence to intentionally, or prevent compliance with, a parenting order without reasonable excuse: Care of Children Act 2004, s 78.

- 9 While a dispute between parents/guardians is being resolved, and until notified of any change in care arrangements (whether by court order or otherwise), the School will continue to comply with any existing parenting agreements, parenting orders or other court orders.
- 10 Where the School considers it appropriate to refer a child to an external agency (for example, for a behavioural assessment), the School will ordinarily require the permission of both a child's parents (and any other guardians) before a child will be referred, except where a parenting agreement or parenting order specifies otherwise.
- 11 Where the School has been notified that there is a dispute between parents/guardians over a child's care arrangements, the School will require the permission of both a child's parents (or any other guardians) before a child may attend school trips or camps or participate in extra-curricular activities arranged by the School, except where a parenting agreement or parenting order specifies otherwise.<sup>3</sup>
- 12 The School is not able to become involved in or mediate disputes between the guardians of a child. Where appropriate, the School will interact with the lawyer for the child, in accordance with relevant procedures.

### **Parent /guardian responsibilities**

- 13 The onus is on the parents and/or other guardians of a child to keep the School fully informed of any changes to care arrangements including any parenting agreement or parenting orders, and to provide the School with a copy of any court orders outlining day-to-day care and/or contact arrangements.
- 14 If any parenting orders or other court orders (including protection orders) are in place for the child, a copy of court stamped documents outlining these orders must be provided to the School by the parents or guardians.
- 15 When parents or guardians individually contact the school regarding the child, it is the responsibility of that parent or guardian to keep other people responsible for day-to-day care informed of this contact. Parents or guardians making contact with the School are to consider that the School will normally send all parents / guardians any correspondence regarding the child including replies to correspondence that is only addressed to the School, unless there is a parenting order or agreement to the contrary.
- 16 When parents or other guardians are within the presence of any student of the School, on school premises, or in any other place where students of the School are gathered for school purposes, the School expects that parents or other guardians will:
  - 16.1 treat other people with respect and set a good example for children; and
  - 16.2 refrain from insulting, abusing or intimidating teachers and other School employees.<sup>4</sup>

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<sup>3</sup> Some parenting orders/agreements contain requirements regarding permission slips, for example for extra-curricular activities.

<sup>4</sup> See Education and Training Act 2020, s 241. See also the School's Complaints Policy and Procedures.