

Custody & separation policy

Introduction and Rationale:

This policy was formulated to provide the school community of St Patrick's N.S, Dromard with guidelines regarding situations of parental separation and custody matters. It was written based on the guidelines outlined by the Irish Primary Principal's Network, and is reflective of The Children and Family Relations Act 2015

Procedures:

The Board of Management and the Staff of St Patrick's N.S, Dromard encourages parents experiencing separation to come and speak confidentially to their child(ren)'s class teacher(s) and/or the school Principal. It is our aim to handle such matters with sensitivity and compassion, and ultimately, our primary concern is for the well-being and overall development of the child.

The following are the key procedures in place with separated parents in the school:

- When a child spends time in two homes, it is requested that the school be provided with both sets of emergency/contact numbers and both addresses for correspondence purposes.
- Regarding the collection of child/children from school- it is requested that the school be informed of any changes in collection arrangements by email. It is the school policy to offer the option of separate parent/teacher meetings, if so requested. However, for the child's sake we recommend that both parents attend together where possible. Each parent has a right to attend such meetings and receive school reports unless there is a court order to the contrary.
- When the school communicates with parents regarding their child, we will communicate with the parent with whom the child principally resides, it is assumed that this parent will inform the other parent of meetings, arrangements etc. Special requests for separate communication can be accommodated. If there is a custody arrangement by which the child spends equal time with both parents, then both parents will receive the school communication.
- Regarding school communication such as notes via schoolbags, it is assumed that the parent with whom the child is residing at the time of that particular communication will keep the other parent informed of such.
- In the absence of a custody arrangement, both parents will be treated as equal partners in terms of parenting rights and responsibilities.
- The school cannot be asked to withhold a child from either parent in the absence of a court order. In this regard, a solicitor's letter is not a court order and cannot be adhered to.
- If there is a serious concern about a parent abducting or leaving the country with the child, the parents/guardian should request their solicitor to seek a court order instructing the school and any other carers regarding the rights of access.

- In the case where an estranged parent/guardian is not known to the class teacher, the concerned parent/guardian should provide a family photograph enabling the class teacher to identify the person in question.

Notes re. Guardianship/Custody

A Guardian is a person legally entitled to parental rights and duties in relation to a child. One of these rights is custody. If a guardian is deprived of custody rights by a Court, they still retain a say in relation to matters regarding a child's welfare.

- Married parents of a child are *joint guardians* and have equal rights in relation to the child. The rights of parents to guardianship are set down in [Section 6 of the Guardianship of Infants Act, 1964](#).
- For children born outside of marriage, only the mother has an automatic right to guardianship. (Even though a father's name may be registered on the child's birth certificate, this does not give him any guardianship rights in respect of his child).
- An unmarried father will automatically be a guardian if he has lived with the child's mother for 12 consecutive months after 18 January 2016, including at least 3 months with the mother and child following the child's birth.
- The school is under no legal obligation to provide any reports about a child if requested to do so by any third party (e.g., Solicitor/psychologist)
- The school Principal or child's teacher are not obliged to attend court unless under subpoena or summons.
- In the case where a legal order is in place, a copy of this order must be furnished to the school by the parents.
- Teachers are not obliged to attend court unless under subpoena or summons.
- The parent/carer of each child has full responsibility for informing the school in writing of any change in circumstances at home e.g., separation, divorce, custody arrangements.

Teachers are expected to

- act in a fair, open and even-headed manner in respect to both parents.
- advise both parents of meetings, if the teacher believes that one parent will not inform the other.
- facilitate separate meeting, if for good reason, both parents cannot attend together.
- comply with the parent who has de facto day to day control of the child in the event of a dispute.
- respect confidentiality of family circumstances and only discuss relevant information with others within the school where necessary.
- seek advice from the Principal or the Board of Management regarding any queries or concerns they may have.

Communication of the policy

A copy will be provided to all staff members in the school. It will be available for all parents /guardians from the office on request. It will be published on the school's website.

Ratification and review of the policy

This policy will be reviewed and ratified every two years or in the event of any changes to current legislation in this area.

Appendix: Parental Status and School Communication

<u>Circumstance</u>	<u>Status</u>	<u>Communication</u>
If parents are married to each other and live together.	Then both parents have joint guardianship and Custody Parents are entitled to information in joint communications. If parents are married to each other but live apart. Then both parents have joint guardianship and custody unless it is otherwise specified by court order in which case a copy of the order which relates to the school should be sought.	Each parent is entitled to information from the school. Communication should be sent to both parents and the means of this communication would need to be clarified with both parents. A written record of the arrangement is advised.
If parents are married to each other, do not reside together but have a separation agreement.	Then it will be necessary for the school to ascertain the legal arrangements with regard to custody and access. Custody may either rest with one parent or there may be joint custody arrangements put in place. The relevant court orders should be furnished to the school.	Each parent is entitled to information about their child. Communication will be to each parent separately. A written record of the agreed arrangements for communication is advised.
If parents are married to each other, live apart and may be in a new relationship(s)	The the partners in any new relationship do not have any statutory rights with regard to custody and access. For instance, they do not have a right to attend Parent/Teacher meetings.	Parents are entitled to information in separate communications. There may however be an arrangement whereby a new partner may collect children from school. Details of these arrangements either between the parties or made through court order will need confirmation and a written record kept.
If parents are not married and either live together or apart.	A non-marital father will automatically become a guardian of a child if he meets the cohabitation requirement. An	Parents are entitled to information in separate communications.

	<p>unmarried father who cohabits for 12 months with the child's mother, including 3 months following the birth, will automatically become the child's guardian. This provision is not retrospective, so guardianship will only be acquired automatically, where the parents live together for at least 12 months after 18th January 2016. In this instance the father is entitled to joint custody along with the mother.</p>	
<p>If parents are not married and are in other relationships.</p>	<p>Then the new partners do not have any statutory rights with a non-marital father will automatically become a guardian of a child if he meets the cohabitation requirement. An unmarried father who cohabits for 12 months with the child's mother, including 3 months following the birth, will automatically become the child's guardian. This provision is not retrospective, so guardianship will only be acquired automatically, where the parents live together for at least 12 months after 18th January 2016. In this instance the father is entitled to joint custody along with the mother unless a court order determines otherwise.</p>	<p>The guardians are entitled to information from the school. New partners should not receive communication from the school unless set out by the court order or agreement among the parties as previously outlined. Written records by the school are advisable.</p>