

Policy on Guardianship/Custody and Access for Kilchreest National School

Introduction: With the constantly changing make-up of the family unit it is necessary to update our policy.

Aims: To clarify, update and inform Board, Staff and Parents on Guardianship, Custody and Access and their implications for the school.

The separation of parents following marital or non-marital difficulties can be extremely traumatic for all parties involved and this is particularly true where children are involved. The issue of marital and non-marital separation will be approached with sensitivity and a clear focus on the wellbeing of the children when in the care of Kilchreest National School.

Definition:

A. Guardianship is:-

- ❖ Having responsibility for the welfare of the child including the religious, moral, mental, intellectual and physical wellbeing of the child.
- ❖ The right to make all major decisions affecting the child's upbringing e.g.
 - Choice of school
 - Medical treatment
 - Religious matters
 - Health requirements
 - Decisions about leaving the country
 - Other

B. Custody: the right of a parent to exercise the physical care and control over a child on a day to day basis:

- Washing
- Feeding
- Ensuring the child has sufficient sleep
- Schooling
- Supervision
- Managing behaviour
- Other

C. Access: The right to see and communicate with the child e.g.

- Overnight stay
- Weekend stay
- Collect child from school/home
- Go on holidays
- Other

Access can be agreed or by Court Order.

If a person has custody of a child, access is not an issue.

Definition of parental relationships in relation to school going children for the purpose of this policy:

Married:

- Living together

Married parents of a child are automatically joint guardians and have joint custody.

Both parents are entitled to:

- ✓ Be consulted in regard to educational welfare of a child e.g. consent for assessment
- ✓ Notice of and a right to attend formal parent/teacher meetings
- ✓ Copies of school reports
- ✓ Notice of meeting with NEPS, SENO etc.
- ✓ Notice of in- school and after- school programmes
- ✓ Notice of school closures
- ✓ Notice of preparations for the various sacraments/other meetings
- ✓ Other

One letter or phone call from the school on the above will be used by school to communicate with the parents.

Married:

- Separated/ divorced and living apart:

Both parents remain as joint guardians

They are entitled to the same/equal information from the school

Both parents are entitled to:

- ✓ Be consulted as regard to educational welfare of a child eg. Consent for assessment
- ✓ Copies of and a right to attend formal parent/teacher meetings
- ✓ Copies of school reports
- ✓ Notice of meeting with NEPS, SENO etc.
- ✓ Notice of in- school and after- school programmes
- ✓ Notice of school closures
- ✓ Notice of preparation meetings for the various sacraments/other meetings
- ✓ Other

Separate letters, texts or call in relation to the above to each parent will be sent.

It is the responsibility of each parent to update the school on new addresses/e-mails and phone numbers where there is a change to same.

Custody or access is subject to an agreement between parents or by court order.

The school needs to verify with parents arrangements in relation to custody and access.

They may request a certified copy of the relevant section/s of the court orders/separation agreement or an up-to-date letter of clarification from a solicitor.

New partners have no statutory rights to the child

No communication from the school will be issued to a new partner, unless:-

- ✓ It is agreed between the guardians, or
- ✓ Provided for by Court order

New partners may have a role with regard to 'domestic arrangements' eg. collecting from school.

Unmarried:

- Living together
- Living apart

In this case the natural mother only has the automatic right of guardianship.

She is entitled to the following:

- ✓ Be consulted in regard to educational welfare of a child eg. consent for assessment
- ✓ Notice of and a right to attend formal parent/teacher meetings

- ✓ Copies of school reports
- ✓ Notice of meeting with NEPS, SENO etc.
- ✓ Notice of in- school and after- school programmes
- ✓ Notice of school closures
- ✓ Notice of preparation meetings for the various sacraments/other meetings
- ✓ Other

The mother can grant the father guardianship by statutory declaration, OR

The father can apply to the courts for guardianship, custody and/or access.

Should the natural mother and the natural father subsequently marry each other, both then have equal rights and are entitled to the same information as for married parents.

The natural father does not have an automatic right to

- ✓ Be consulted in regard to educational welfare of a child eg. consent for assessment
- ✓ Notice of and a right to attend formal parent/teacher meetings
- ✓ Copies of school reports
- ✓ Notice of meeting with NEPS, SENO etc.
- ✓ Notice of in- school and after- school programmes
- ✓ Notice of school closures
- ✓ Notice of preparation meetings for the various sacraments/other meetings
- ✓ Other

Where the natural father is in possession of either a court order or a statutory declaration, entitling him to guardianship, he is entitled to the above information.

The schools needs to request a certified copy of the statutory declaration

Or

A certified copy of the relevant court order

Or

An up-to-date letter of clarification from a solicitor.

Others:

Grandparents, extended family or anyone who acts in loco parentis to the child may apply to the court seeking orders in regard to guardianship, custody and/or access.

When such a person obtains a court order granting him/her guardianship rights, s/he would be entitled to the same rights as for married parents. Foster parents are not the guardians of the children in their care. School would liaise with the HSE, the guardians in this case.

Having custody and/or access may entitle the person to some information from the school e.g. opening or closing times.

Implications for the School

The school needs to ask parents to establish the **legal status** of non-married parents. The school will not share information until such time as it is given proof in writing that the person requesting the information is entitled to receive it.

Where custody, collection and delivery of children to/from school are in dispute the school will endeavour to comply with the parent who has to all intents and purposes 'de facto' control of the children.

During school hours children are under the control of the principal and teachers who are in 'loco parentis'.

Parents should not ask to use the school as a venue for informal access to his/her child/ren. If there may be cases where this might occur e.g. a parent living in another country, and if it is agreed by both parents, the Board of Management must be informed of such requests and agreements between parents. The school must also be contacted in advance of such 'visits'. Appropriate information relevant to the child regarding family structure etc., may be passed from teacher to teacher as children move classes within the school as part of normal professional communications.

The school should avoid becoming embroiled in the marital dispute and the response of the school will be determined by the facts of each individual case.

The onus is on the parent/s to inform the school of changing family circumstances and to provide legal documents, phone numbers addresses etc. where a change has occurred.

Relevant Legislation.

Guardianship of Infants Act 1964

Judicial separation and family Law Reform Act 1989

Childcare Act 1991

Family Law Act 1995

Family Law (Divorce) Act 1995

Children Act 1997

Ratification and Implementation

This policy was ratified on the _____

Signed: _____

It was communicated to the school community in 2014

Review:

This Policy will be reviewed on a year to year basis keeping in mind any new legislation pertaining to the Guardianship of children and/or custody and/or access.