

## FAMILY LAW POLICY

### Statement

Schools have contractual obligations to the person who enrolls the child and who is responsible for payment of the fees.

Schools have a duty in tort to take reasonable care for the safety of the child.

Schools have no way of knowing as a fact who are the natural parents of a child.

Schools should not need to determine the current state of orders in a Family Court matter.

The Family Court seldom makes an order which a school is directed to obey.

### Purpose

The purpose of this policy is to outline Enkindle Village School's response to matters in relation to family law issues.

### Scope

The policy covers parents/carers, students and staff and describes how the school responds to requests by parents/carers who have no contractual arrangements with the school for information about, and access to, their child (ren).

<b>Status:</b> Version 2	<b>Supersedes:</b> Version 1
<b>Authorised by:</b> Board Chair	<b>Date of Authorisation:</b> July 2025

### References

- *Family Law Act 1975 (Cth)*
- *Australian Education Act 2013 (Cth)*
- *Australian Education Regulation 2013(Cth)*

### Recent Amendments (Effective 6 May 2024)

- The **presumption of equal shared parental responsibility** has been removed. Courts now decide parental responsibility based solely on the **best interests of the child**.
- New terminology like **"joint decision-making"** and **"sole decision-making"** is being used in court orders to simplify interpretation

<b>Review Date:</b> Annually	<b>Next Review Date:</b> July 2026
<b>Policy Owner:</b> Townsville Independent School Association Inc.	

### Definitions

**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 eighteen (18) has parental responsibility for the child. This is not affected, for example, by the parents becoming separated or by either or both of them marrying or re-marrying. [*Family Law Act 1975 (Cth) s61(B); s61(C)(1)and(2)*]

**Major Long-Term Decisions:** These include decisions about a child's education, health, name, and living arrangements. Schools must be cautious when acting on these without clear parental agreement or court orders.

**Day-to-Day Decisions:** These include things like excursions, uniforms, and canteen choices. Schools can generally act on instructions from either parent unless otherwise specified.

**Parent(s):** Usually a child's parents are the father whose sperm fertilises the mother's ovum and the mother who conceived and gave birth to the child. These are called the "natural parents". Other circumstances of parenthood include:

- Adoptive parents
- Stepparents may have a duty to maintain a child but only under a court order [Family Law Act 1975 (Cth) s66M]
- Where there has been artificial insemination by a donor
- Where an ovum provided by one woman is fertilised *in vitro* and inserted in another woman
- Where a woman acts as a surrogate and agrees to bear a child for another woman

**Persons responsible for students:** The natural parents of a student are legally responsible for the student until the student turns 18 unless a parenting order has been made by the Court removing responsibility from one or both of the natural parents.

### **School Responsibilities**

- Schools must:
  - Be aware of all relevant court orders (parenting, domestic violence, child protection).
  - Avoid interpreting ambiguous orders without legal advice.
  - Prioritise the child's safety and welfare, especially in cases involving family violence.
  - Maintain a child-focused approach, not a "parental rights" approach

### **Policy**

Except in exceptional circumstance outlined below, the school does not become involved in Family Court matters.

It is the policy of Enkindle Village School to provide information about a child and access to the child to those people whom the school believes are the natural parents of the child and to others as per the school's contractual obligation to the enrolling party. Under the *Australian Education Act 2013* and *s59 of the Australian Education Regulation 2013*, the school is required to provide reports to the "persons responsible for students". Enkindle Village School will provide school reports to the "persons responsible" as per the above definition.

In all other matters, the school will, unless aware of information to the contrary, follow the directed course of the enrolling party, as per the school's contractual obligations to the enrolling party. If there is a disagreement between the enrolling party and others who believe they have the right of access to information about or access to the child, it is the responsibility of those parties to reach agreement independently from the school, either through consultation or court action. The school will not become involved as the arbiter in disputes of this kind.

### **Exceptional Circumstances**

The policy is subject to 3 qualifications:

1. Where a court orders otherwise and the order binds the school.
2. Where it is reasonably foreseeable that the safety of the child could be jeopardised.
3. Where the child objects and the school believes it is in the best interests of the child to heed the objection.