



Special School for Children with Autism and Complex Needs

## **Policy on Separation and Custody Issues**

The Principal, Board of Management and staff of ABACAS Special School acknowledge that parental separation is a challenging situation for families, especially the children. We encourage parents who are separated or going through the separation process to come and speak confidentially to their child's teacher and/or the 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/children involved. In handling such sensitive information pertaining to family issues the school is fully aware of its obligations to comply with the Data Protection Acts 1998, 2003 and 2018. The Child & Family Relationships Act, 2015, provides for equal recognition of opposite sex and same sex couples in its definition of parents. All of the information below should be read as referring to both opposite sex and same sex parents.

### **1. Changes to Home / Family Circumstances:**

1.1 It is the policy of this school that the parent / guardian of each child has full responsibility for informing the school in writing, of any change in circumstances at home e.g. separation, divorce, new partner, custody arrangements, access to the child / children.

### **2. Contact Details:**

2.1 In the case of separation and / or when a child spends time in two homes, it is requested that the school be provided with both sets of addresses, contact details, contact numbers and emergency numbers.

### **3. Collection From School:**

3.1 Regarding the collection of a child / children from school - it is requested that the school be informed of the collection arrangements and that any changes in these arrangements be confirmed in writing to the school.

3.2 Where a dispute arises between parents of a non-marital child regarding the collection of the child / children during the school day or after school, then the onus will be on the father to produce evidence of a Court Order or A Statutory Declaration (i.e. an agreement



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made by the mother and father of a non-marital child, enabling the father to become a guardian of the child jointly with the mother) to instruct the school.

### **4. Custody - Guardianship:**

4.1 There is no legal basis for the class teacher or Principal to deny either parent or guardian the right to collect his/her child from school unless there is a court order in place instructing the school otherwise. A solicitor's letter is not a court order however a solicitor's letter instructing the school that a court order exists and the details of which is sufficient.

Some recommendations the school will undertake:

- Inform the parent/guardian that requests for denial of access to the other partner are outside the jurisdiction of the school and therefore the school is unable to pass judgment on rights of access/collection.
- Suggest that if there is a serious concern about abduction or leaving the country with the child(ren), then the parents/guardian should request their solicitor to seek a court order instructing the school re. rights of access/collection etc.
- Meanwhile, the school can offer maximum cooperation and support to the concerned parent/guardian along the lines of:
  - That the Principal assures the concerned parent/guardian that maximum awareness and attention will be given by the class teacher and others in the school who are involved in the care of their child(ren) with respect to all aspects of parent-school communication and the collection of children.
  - In the case where the estranged parent/guardian is not known to the class teacher then the concerned parent/guardian should provide a family photograph enabling the class teacher to identify the person in question.
- In the absence of a custody / guardianship 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 / children from either parent in the absence of a court order.

### **5 Parent - Teacher Meetings:**

5.1 For the support and well-being of the child it is the policy of the school to strongly recommend that both parents/guardians attend parent-teacher meetings together.



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Each parent/guardian has a right to attend such meetings and receive school progress reports unless there is a court order to the contrary.

Each parent will be asked in turn if they have questions in relation to the report or their child's learning and progress in school.

5.2 However where one parent is unable or unwilling to attend the designated meeting they may request to meet the teacher at any stage during the year to discuss their child's education.

5.3 It is important that the child remain the focus of all discussions in school. The school cannot act as an arbiter of disputes between parents. It is important that parents mutually agree on all that pertains to their child's education.

### **6. Home - School Communications:**

6.1 It is the policy of the school to provide a separate letter/communication to **each** parent / guardian in the case of Category 1 Communications.

These shall be:

- School reports.
- Notice of formal parent-teacher meetings.
- Notice of meetings with NEPS, SENO, TUSLA etc.
- Notice of formal preparation meetings for the various sacraments.
- Newsletters and other school notices.

6.2 With regard to Category 2 Communications, i.e. notes, school communication via schoolbags, the school journal, texts etc., it is assumed that the parent with whom the child principally resides will keep the other parent informed.

In the case of such Category 2 Communications it is the policy of the school not to issue a separate note / communication to each parent / guardian.

### **7. Non-Marital Relationships:**



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7.1 In the case of a child / children of a non-marital relationship, the school will co- operate with the arrangements in place between the parties regarding the child /children unless a dispute arises.

7.2 Where such a dispute arises it is the policy of the school to issue only one letter / communication with regard to Category 1 Communications to the natural mother and to the father, only if he is in possession of,

a) A Court Order or

b) A Statutory Declaration agreed with the natural mother appointing him guardian. The school will request copies of the relevant sections of such orders / declarations.

### **8. New Partners:**

8.1 The School recognises that new partners have no statutory rights in relation to the child but may have a role with regard to collection from school etc.

8.2 Accordingly, communications from the school to new partners will be limited to that which has been agreed between **both** natural parents, or that which has been provided for by a court order.

8.3 Category 1 Communications will only be issued to the natural mother and natural father. No letter / communication will be issued to new partners unless there is express agreement between the parties or unless such is provided for in a court order.

### **9. School Staff and Separated Parents:**

9.1 Teachers are expected to;

(a) Act in a fair, open and even-headed manner in respect of both parents and treat all information supplied in a sensitive, confidential and professional manner and in compliance with the Data Protection Acts 1998, 2003 and 2018.

(b) Pass all relevant information concerning a child/children from one teacher to another



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within the school, on "a need to know" basis, to enable the school to cater for the well-being and development of the child in the most effective manner possible.

(c) Advise both parents separately, of Level 1 Communications, in accordance with the school policy on Custody-Separation.

(d) Facilitate a request to meet the teacher at any stage during the year to discuss their child's education where one parent is unable or unwilling to attend the designated parent-teacher meeting.

(e) Comply with the parent who has de facto day to day control of the child (i.e. Custody) in the event of a dispute.

(f) If in any doubt, seek advice / guidance from the Principal and Board of Management.

#### **10. Notes: Guardianship / Custody:**

In the context of changing family circumstances. It is important to acknowledge and appreciate the differences between having custody of a child and being a guardian to that child. This note is for guidance only and does not purport to be a legal interpretation.

##### **10.1 Guardianship:**

Married parents are 'Joint Guardians'.

A Guardian is a person who has legal rights to make decisions regarding the upbringing and welfare of the child as well as having a duty to ensure that the child is properly maintained and cared for.

One of these rights is Custody.

Custody is the right to day-to-day physical care and control of the child.

Generally speaking, parents who are married are both guardians to their children.

In the case of non-marital relationships, the natural mother only, has automatic right of guardianship. The natural father has no automatic custody or guardianship rights, even though his name may be on the birth certificate. The un-married father may, in certain



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circumstances become a guardian, which will be documented by a court order. A solicitor's letter, confirming such a court order exists, should be sent to the school when such a court order is in place.

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 i.e. the religious, moral, intellectual, physical and social welfare of the child. They can also be awarded access.

Access gives a parent a "temporary" right to visit with the child.

This policy was ratified by the Board of Management of ABACAS Special School on 14<sup>th</sup> November 2018.

Signed:

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*Chairperson of the Board of Management*