

# Family Law Policy

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<b>Purpose:</b>	The purpose of this policy is to outline The School of Total Education's response to matters in relation to family law issues.	
<b>Scope:</b>	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>References:</b>	<ul style="list-style-type: none"><li>• Child Protection Policy</li><li>• Enrolment Policy</li><li>• Privacy Policy</li></ul>	
<b>Supersedes:</b>	19/6/2022	
<b>Authorised by:</b>	Board Chair	<b>Date of Authorisation:</b> 18/7/2022
<b>Review Date:</b>	Every two years or when there are changes to Family Law	<b>Next Review Date:</b> 18/7/2024
<b>Policy Owner:</b>	School Governing Board	

## Rationale

1. Schools have contractual obligations to the person who enrolls the child and who is responsible for payment of the fees.
2. Schools have a duty in tort to take reasonable care for the safety of the child.
3. Schools have no way of knowing as a fact who the natural parents of a child are.
4. Schools should not need to determine the current state of orders in a Family Court matter.
5. The Family Court seldom makes an order which a school is directed to obey.

## Policy

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

It is the policy of The School of Total Education 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". The School of Total Education 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.

## Legislation

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

## 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)*]

**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
- Step-parents 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.