

SILVER TREE STEINER SCHOOL



# Family Court Orders and Violence Restraining Orders Policy and Procedures

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2017

This procedure is applicable to: All Staff

AUTHORISED BY:	Administrator
VERSION:	Version 3
DATE:	October 2017
REVEIW:	October 2019

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## **FAMILY COURT ORDERS AND VIOLENCE RESTRAINING ORDERS POLICY**

Family Court Orders (FCOs) can provide for parental access to a student and to a student's information. Access is provided with regard to the safety and welfare of the student and to the management of the school. Violence Restraining Orders (VROs) can restrict the access of persons including parents to a student.

The Silver Tree Steiner School will handle family issues such as these with compassion, common sense and with the welfare of the child being of paramount concern. The School is committed to making decisions based on what it believes to be the best interest of the child and at all times the school will uphold its responsibility and its duty of care to the child.

The school will seek a copy of any Parenting Plan or Family Court Order to assist in clarifying the parents' wishes with respect to contact and release of information concerning a student. In the absence of these documents the school will act as if both parents have *'equal shared responsibility for the child'*. (Family Law Act – s61DA)

## **INTRODUCTION**

Family law is based on the premise that the best interests of children are met when both parents have a meaningful involvement in their lives. The main focus is on the child and the child's best interests. In the absence of a court order to the contrary, parental responsibility continues even when there is a change in the parents' relationship.

Violence Restraining Orders are made on the basis that a member of the public believes they or their children need to be protected from a person whom they believe might cause them harm.

Court orders, either FCOs or VROs, bind the parties to whom they are directed. It is not the role of the School to interpret the order or to mediate between parental disputes.

## **RELATED POLICIES**

Other policies that should be read in conjunction with this policy are:

- Child Abduction Policy
- Child Protection Policy
- Emergency Management Plan
- Playground Supervision Policy

## **LEGISLATION**

Family Law Act (Cth) 1975

Family Law Reform Act (Cth) 1995

## **COURT ORDERS**

In situations where parents cannot agree on the arrangements for the care, welfare and development of a child, the Family Court will issue orders to protect the best interests of the child. Where differences arise between the parents regarding parenting of a child e.g. regarding the amount of contact a parent will have or where the child will reside, the school will not take sides in the dispute or do anything that could be construed as taking sides or favouring one parent ahead of the other. Those differences should be left to the parents to resolve in conjunction with their professional advisers.

The School should be provided with copies of any court orders relating to the care and parenting of the child and it will not act without first seeing the court orders. However, it is not the school's role to enforce the court orders.

The Family Court has very far reaching powers and can make orders on a wide range of issues, including:

- Parental Contact orders
- Residence orders
- Specific issue orders
- Maintenance orders
- Restraining orders

Following is a brief explanation of the main types of orders the school is likely to encounter.

### **Contact Order**

A Contact Order will usually stipulate which person is allowed access to a student during school hours and is permitted to collect a student from school. An Access Order made under earlier legislation has the same effect as a Contact Order.

### **Residence Order**

A Residence Order usually deals with whom a student is to reside. Orders relating to custody or guardianship made under earlier legislation have the same effect as a Residence Order.

### **Specific Issues Orders**

Specific Issues Orders deal with aspects of parental responsibility for a student such as medical, education and religious matters. Under the Specific Issues Orders, a parent's responsibility may be reduced and/or access to information relating to the child's schooling may be limited, including school reports, parent and teacher meeting and school newsletters.

### **Violence Restraining Orders**

Violence Restraining Orders (VRO) may be issued against one of the parents. A VRO restricts access that a parent may have with the other parent and/or children of the relationship. Unlike a breach of other family court orders, it is a criminal offence to breach a VRO. Breaches of a VRO can result in fines of up to \$6000 and/or imprisonment for up to 2 years.

If a parent is subject to a VRO and the school becomes aware that the order is being breached, the principal may contact the police. However, it is not the school's responsibility to enforce a VRO and staff should not place themselves at risk in trying to enforce the terms of a VRO.

## **PRINCIPALS' INFORMATION SERVICE AT THE FAMILY COURT**

The Administrator/Principal of the Silver Tree Steiner School may access the Principals' Information Service at the Family Court to find out current information in relation to parenting orders or access arrangements. Principals can fax through a request to the Family Court. A request must state the names of the parties and a file number (if known). If no file number is known, then include as much identifying information as possible. The letter must also be on school letterhead and, most importantly, must state what proper interest the principal has in the case. (Refer Appendix 1 for Example)

## PROCEDURES

The Administrator/Principal is responsible for the daily management and control of the school grounds, including all persons on the premises. This is in order to provide for the safety and welfare of students and staff on the school premises.

The Administrator/Principal or appointed staff member will:

- Confirm that the person requesting access or restriction of access to a student or the student's information is a parent or legal guardian.
- Inform the parents that they are responsible to provide the School with a copy of the current court order.
- Seek assistance from AISWA or the School's legal representative if the court order provided is unclear.
- Allow each parent access to a student and the student's information, unless there is a court order to the contrary.
- In allowing such access, make sure that the student's safety and welfare, educational needs and the safe management of the School is considered.
- Respond to any situations that arise from the court orders with due regard to the:
  - Education of the student
  - Day to day management and control of the School
  - Safety and welfare of students and staff on the School premises.

In complying with a court order that restricts the access of a parent or other person the Administrator/Principal or appointed staff member will consider:

- Which staff members need to be informed in order to ensure the student's safety, while also considering the family's right to privacy.
- How the staff and the student should be instructed to respond if approached by person/s restricted from contact by court order.
- How the child/ren is/are picked up and dropped off at school – Do alternative plans need to be made?
- If special provisions need to be made for camps, excursions or other events, especially if these have been advertised in the Newsletter.

### **NEW PARTNER ACTING AS 'PROXY'**

Unless both parents approve or there are court orders giving the parent's new partner certain rights with respect to the child, the school will only discuss or provide information about a child to the child's parents. A school can have information relayed to it by the parent's partner ('proxy') but it should not reveal information about the child to that person.

### **PARENTS ATTENDING SCHOOL ACTIVITIES**

Unless a specific court order to the contrary has been made, both parents may attend such activities. If there is a court order that prohibits one parent from spending time with or communicating with the child, or an order preventing a parent from attending a school where the child is, it is normally appropriate that the school seek to ensure that that parent does not attend or participate in any activity where the child will be present.

Before taking any action to prevent a parent attending the school grounds or a school event the school must obtain a copy of the order issued and stamped by the court.

### **PARENT DELIBERATELY BREACHS A COURT ORDER**

In the first instance, it is normally appropriate for the school to request that they leave the school grounds or function. If they refuse you may request the police to attend and remove the person.

If the child is present at the school or at the function, contact with the parent normally should be avoided but attention should be paid to the actions of the parent and the child.

On no account should any member of staff try to physically bar or eject a parent, as this may amount to assault.

As soon as is possible, it would be appropriate for the school to alert the other parent of the breach of the court order by the parent. From this point, what action they take is up to the other parent and the school will not become involved or provide advice to the other parent.

## REFERENCES

AISWA Family Law Issues - Policy and Procedure Guidelines

Available: <https://www.ais.wa.edu.au/index.cfm?view=member&partof=114&fID=136>

Family Law Act (Cth) 1975 and Family Law Reform Act (Cth) 1995

Available: <http://www.austlii.edu.au/au/legis/cth>

Occupational Health and Safety Act 1984 and Regulations 1996

Available: <http://www.slp.wa.gov.au/legislation>



**APPENDIX 1 – Example Letter Principals Information Service**

[School Letterhead and Address of School]

*Principal Registrar  
Family Court of Western Australia  
Level 1  
150 Terrace Road  
Perth WA 6000*

*ATTN: Supervisor, Customer Services  
FAX: 9224 8360 PHONE: 9224 8222*

*Dear Sir,*

***Re. Robert Jones v Marnie Jones  
File number (if known): 123456***

*I am the Principal of The Private School. Miss Jane Jones and Miss Elizabeth Jones, the children of the parties named above, are students at this school.*

*Mr Robert Jones has requested that the school enrol both Jane and Elizabeth Jones as students. However, one of our teachers is acquainted with the mother of Jane and Elizabeth and has informed me that she believes there are Family Court orders which provide that both girls attend A. Nother Private School.*

*I am therefore requesting a copy of any current Family Court orders that relate to these two students. Could you please fax these orders through to me on 9123 4567 at your earliest convenience or could you please contact me on 9123 4567 at your earliest convenience to discuss this matter.*

*Yours sincerely,*