

# The Kinder Garden



## Family Law and Access Policy

### Definitions

**Parental Responsibility** – means that each Parent/Guardian has the responsibility for their children's welfare, either in the long-term or on a day to day basis and includes matters such as where the children will live and with whom they will have contact. It is not affected by any change in the parents' relationship, for example if they separate or remarry.

**Parenting Orders** – are orders that the court will make when parents cannot decide on matters themselves. They change parenting responsibilities and stipulate which parent has what responsibilities. There are 4 types of parenting orders:

- Residence – an order to say with whom the child lives, including any shared arrangements
- Contact – an order to say the times that a child may have contact with a parent with whom they are not living, or anyone else who plays an important part in their life, such as a grandparent (contact can either be face to face, or by phone, letters)
- Child Maintenance – an order that provides for financial support of a child
- Specific Issues – an order about any other aspect of parental responsibility (this may include the day-to-day care, welfare and development of a child, issues relating to religion, education, sport, or other specific issue)

### Legislative Requirements

Family Law Act 1975  
Education and Care Services National Law Act 2010  
Education and Care Services National Regulations 2011  
National Quality Standards 2011  
NSW Department of Education & Communities

### Who is affected by this policy?

Children  
Parents  
Families  
Staff  
Management

### Implementation

Parents, whether married or not, have joint legal responsibilities for their children unless there is a Court Order determining otherwise. As our Educators need to be clear about who has legal responsibility, we need to have a copy of any access order issued by the court.

It is a requirement of the **Education and Care Services National Regulations 2011** that a child may only leave the premises if the child is given into the care of

- I. a parent of the child, or
- II. an authorised nominee named in the child's enrolment record, or

- III. a person authorised by a parent or authorised nominee named on the child's enrolment record to collect the child from the premises.

A person forbidden by a court order from having contact with a child attending the service will not be given any information regarding the child, and will not be allowed to enter premises of the service while the child is attending, and will not be permitted to collect the child from the service.

In the case where guardianship and custody is legally defined, Service policy must be followed as stated on the enrolment form. When situations change a copy of the Custody Order must be provided to the Service. Where confrontation situations arise over custody the child will be kept at the Service, the custodial parent contacted and if necessary the Police and/or the **NSW Department of Education**.

### **Change of a Child's Name**

In some circumstances, families may advise that the child's name (often the surname) has been changed, for example, as a result of a separation. The Nominated Supervisor should request evidence of a formal name change, which in NSW includes:

- A NSW Registry of Births, Deaths and Marriages birth certificate, which includes an endorsement outlining the name change
- A NSW Registry of Births, Deaths and Marriages Change of Name Certificate outlining the name change

All educators should be made immediately aware of the name change by the Nominated Supervisor and administrative staff will alter sign in and out sheets and software packages to reflect the name change by the following day.

**The Approved Provider/Nominated Supervisor will ensure that this policy is maintained and implemented at all times.**

## **Sources**

Family Court of Australia website [www.familycourt.gov.au](http://www.familycourt.gov.au) Retrieved: 7<sup>th</sup> March 2017  
Education and Care Services National Law Act 2010  
Education and Care Services National Regulations 2011  
Australian Children's Education & Care Quality Authority  
NSW Department of Education  
Guide to National Quality Standards 2011

## **Review**

The policy will be reviewed annually. Review will be conducted by management, employees, parents and any interested parties.

**Reviewed:** March 2018

**Date for next review:** March 2019