



Court Orders Procedure

Rationale

Under NAG 5 (i) & (iv) all schools are required to:

- provide a safe physical and emotional environment for students;
- comply in full with any legislation currently in force or that may be developed to ensure the safety of students and employees.

This means that where the school is aware of a court/custody order it is obligated to enforce it.

Guidelines

1. Upon enrolment the school will ask, on its enrolment form, for details of any custody issues or court orders.
2. Parents must notify the school of any changes in circumstances at home or of any Family Court orders, so that the school can be aware of who has the right to have the child in their care at any particular time. This will be done annually through the publishing of this procedure in the school newsletter. An annual reminder for parents to update their details will also be published.
3. An up-to-date register of students with custody/court orders will be retained by the guidance counsellor and school office. (This information is recorded in the student management system.)

Question and answers

Can a parent with a custody order in their favour override the court order and allow access?

Sometimes a custody order will be silent as to access. In other words, no access to the other parent is stipulated in the order. In that event, the custodial parent is free to determine the access with the other parent.

On occasion, however, a custody order will specify that access with the other parent is to only take place on a supervised basis. **It is not for the school to enforce that requirement.** If proceedings are still ongoing, then it is likely that counsel for the child, if they are aware that unsupervised access is taking place, will take steps to enforce supervision. Alternatively, if the school is concerned that the child may be at risk while in the unsupervised care of the access parent, then a notification can always be made to Oranga Tamariki.

What responsibilities does a school have to enforce a custody order?

If a school is aware that a child is in the custody of one parent (Parent A) and the other parent (Parent B) turns up to collect the child from school, then the school needs to consider the following possibilities:

- Parent B may merely be collecting the children from school for the purposes of exercising access. It is not unusual for the non-custodial parent's access to start after school and carry through to Sunday evening. The school should check any custody orders that are on file to verify if this is the case.
- Parent B may be at the school in breach of custody orders for the purposes of taking the child to defeat a custody order. If the school is aware that this is a possibility, then every effort should be made to contact the custodial parent and to try to persuade the child from not leaving with Parent B until confirmation can be obtained from Parent A that the child should be with Parent B. It is not suggested that physical restraint should be used on the child. If Parent B is there in breach of court orders, consideration should be given to telephoning the Police.
- Parent B may be at the school in breach of a protection order. If the children are named on the protection order, then it is a breach of that order for Parent B to be at the school. Again, Parent A should be contacted to ascertain whether the court order allows for Parent B to have access to the children in an unsupervised setting. If

Parent B should not be at the school, then the children should not be allowed to go with Parent B and the Police should be contacted.

How does a custody order affect grandparents' access?

Grandparents have no automatic right of access to children. Indeed, the grandparents, aunts and uncles, or siblings of the child can only apply for access in the event that the parent has either died, has been refused access to the child by the court, or is not making any attempt to exercise access with the child.

What if the school receives gifts or letters for the child from an estranged parent?

Unless there is a protection order in place, there is no reason why those items should not be forwarded to the child. If in doubt, contact the custodial parent.

What is the duration of a custody order?

The Family Court may issue two types of custody order, an interim order and a final custody order. An interim order is usually expressed as 'continuing until further order of the court'. Therefore, neither order expires. It may be possible that the school is shown a custody order that has been superseded by a subsequent order. However, if the school has encouraged parents to always supply copies of Family Court orders to the school, then the school should have on record the latest custody order or any other Family Court order.

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