

Access Rights to Children

The issue of child custody, as it applies to the right of either parent/guardian to collect their child(ren) from school is often highly charged with emotion and great pressure is put on Principals.

The classic scenario presents where one parent will inform the principal that there is a relationship breakdown with the added hypothesis of the likelihood that the estranged parent may collect the child and abscond. Such a scenario is quite frightening and presents nightmare images. However, from the Principal's perspective there is no 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 instructing the school otherwise. A solicitor's letter is not a court order. Anyone can ask a solicitor to write a letter on their behalf but it has no legal standing.

Some recommendations:

- 1) 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 judgement on rights of access/collection
- 2) 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 and any other carer's of the child(ren) regarding rights of access/collection etc
- 3) 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 (often the case in larger schools), then the concerned parent/guardian should provide a family photograph enabling the class teacher to identify the person in question.

These practical measures can in no way deny either parent/guardian access to their child(ren), but are based on basic humanitarian support for a distressed parent/guardian. Ultimately only a court order can change the existing rights of both parents/guardians.

Note

There is widespread judicial thinking that Access is really a right of a child to see its own parent rather than a parental right. Access is only denied by the Courts in exceptional circumstances where there is credible evidence to suggest that any degree of access under any conditions would likely to be injurious to the welfare of the child.

Implementation / Ratification & Review.

This policy has been ratified on the _____. It will be reviewed again in 2019/2020.

