

# Family Law Policy

FLP2017-1.1

<b>Purpose:</b>	The purpose of this policy is to outline the Arcadia College response to matters in relation to family law issues.	
<b>Scope:</b>	The policy covers parents/carers, students and staff and describes how the college responds to requests by parents/carers who have no contractual arrangements with the college for information about, and access to, their children).	
<b>Status:</b>	Approved	<b>Supersedes:</b> N/A
<b>Authorised by:</b>	College Governing Body Chairperson / CEO	<b>Approval Date:</b> 16 <sup>th</sup> December 2015
<b>References:</b>	Family Law Act 1975 (Cth) Australian Education Act 2013 (Cth) Australian Education Regulation 2013(Cth)  Child Protection Policy Enrolment Policy Privacy Policy	
<b>Reviewed:</b>	2 Years	<b>Next Review:</b> 16 <sup>th</sup> December 2017
<b>Responsibility:</b>	CEO	<b>Point of Contact:</b> Head of Welfare/Deputy Principal
<b>Policy Owner:</b>	College Governing Board	

## 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)*]

**Parents:** 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.

## Policy

### Rationale

1. Colleges have contractual obligations to the person who enrolls the child and who is responsible for payment of the fees.

2. Colleges have a duty in tort to take reasonable care for the safety of the child.
3. Colleges have no way of knowing as a fact who the natural parents of a child are
4. Colleges 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 college is directed to obey.

## **Policy**

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

It is the policy of Arcadia College to provide information about a child and access to the child to those people whom the college believes are the natural parents of the child and to others as authorised by the person who enrolls the child.

If the enrolling party directs some other course, the directed course will be followed by the college, under the college'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 college, either through consultation or court action. The college will not become involved as the arbiter in disputes of this kind.

## **Exceptional Circumstances**

The policy is subject to 3 qualifications:

- (i) where a court orders otherwise and the order binds the college
- (ii) where it is reasonably foreseeable that the safety of the child could be jeopardised
- (iii) where the child objects and the college believes, it is in the best interests of the child to heed the objection.