



# Ballinahinch National School

## Scoil Náisiúnta Baile na hÍnse

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### *Policy on Custody/Separation*

### *Issues Affecting Pupils and the*

### *School.*

The Staff of Ballinahinch N.S. encourage parents experiencing separation or custody issues to come and speak **confidentially** to the teachers and/or principal. It is our aim to handle such matters with sensitivity and compassion, and ultimately, our primary concern is for the well-being and overall development of the child.

The separation of parents following marital or non-marital difficulties is extremely traumatic for all parties involved and this is particularly true where children are concerned. The issue of marital and non-marital separation will be approached with sensitivity and with a clear focus on the well-being of children when in the care of Ballinahinch National School.

In a **marital** relationship both parents are joint guardians. In a **non-marital** relationship, the mother is automatically the guardian of any children. It is open to the natural father to be appointed a guardian through the courts.

Parental separation can occur in a number of ways, for example:

- “de facto” separation: no formal/legal arrangements in place for custody/access to children;
- Custody and access of children set out in a mediation agreement (no formal legal standing);
- Separation Agreement/Deed of Separation (negotiated between both parties Solicitors);
- District Court Orders for Custody and Access;
- Decree of Judicial Separation (Circuit and High Court) may deal with custody/access;
- Foreign Divorce/Decree;
- Irish Decree of divorce.

It is important to note that the issue of schooling may not be explicitly dealt with in every case whether in the Separation Agreement or in the Court Order. In many cases

the issue of custody is agreed between the parties without the necessity for court orders and expert reports.

### *Once a parent always a parent*

Parents, although separated following marriage breakdown, remain the legal guardians of their children. In cases of marital breakdown, the issue of custody and access arise. This may be resolved with both parents sharing joint custody, or with one parent having or being awarded custody and the other parent having access.

Irrespective of the issue of custody in marriage breakdown, parents remain as joint guardians of their children and their legal obligations and rights as guardians remain unaltered.

Custody may be defined as the daily care and control of the child. The right of custody is only one of the rights that arise from the guardianship relationship between parent and child.

Guardianship gives both parents a say in all matters affecting the welfare of their child/children whether physical, religious, moral, social, educational – irrespective of the issue of custody. As guardians, parents continue to have rights in relation to their upbringing of their child.

Essentially the issue of guardianship supersedes that of custody.

### *Implications for Ballinahinch National School*

- a) In cases of separation, Separation Agreements and Court Orders, details relating to custody of children, access, etc. are generally considered private to the parties involved and are not copied to school authorities. The guardianship relationship remains unaltered.
- b) Because of the guardianship relationship and the say it gives both parents in matters affecting the welfare of their children, both parents, unless precluded by Court order, the following shall apply:
  - When a child spends more time in two homes, the school should be provided with both sets of emergency/contact numbers.
  - Regarding the collection of the children from school, the school be informed of any changes in collection arrangements by note.
  - It is school policy to give separate parent/teacher meetings, **if** the school is informed of such a need.
  - It is assumed that when we wish to communicate with parents regarding their child, the parent who is contacted (i.e. the parent with whom the child principally resides) will inform the other parent of meetings, arrangements, etc. unless the school is otherwise directed.
  - Regarding notes, school communication via schoolbags, school reports, etc., it is assumed that the parent with whom the child principally resides will keep the other parents informed unless the school is requested to do otherwise
  - In the absence of a custody arrangement, both parents will be treated as equal partners in terms of parenting rights and responsibilities.
  - The School cannot be asked to withhold a child from either parent, in the absence of a custody arrangement.

- The normal practice is to invite parents to a parent teacher meeting by sending a note home via the child, when requested the school will send two such notes, one to each parent provided both addresses are supplied.
- c) Where custody and/or the collection/delivery of children to/from school are in dispute and brought to their attention, teachers should:
  - seek direction from the Board of Management on how to handle this situation; endeavour to comply with the request of the parent who has to all intents and purposes “de facto” control of the children;
  - refrain from giving guarantees to either parent regarding handing over of children at the end of the school day, etc.
  - avoid becoming embroiled in the marital dispute and place the onus on the custodial parent to collect the children at the end of the school day.
- d) During school hours, children are under the control of the principal and teachers who are in “loco parentis”. Where a parent (or other family relation of either side) seeks to use the school as a venue for information access to his/her children, the principal and teacher should decline the occurrence of this. If in doubt advice should be sought from the Board of Management.
- e) Appropriate information, relevant to the child, regarding family structure etc., may be passed on from teacher to teacher within the school as part of normal professional communications.
- f) Increasingly teachers are requested by a range of professional (social workers, psychologists, probation officers, etc.) to provide written reports on pupils. Likewise, in custody/access cases solicitors acting for one parent may seek a written report from a teacher.

**Accordingly, the Board of Management advises that:**

- I. any reports provided should relate to the type of information a teacher is professional capable of giving and be within the teacher’s area of expertise.
- II. The report should be similar in content to the normal end of year school report and supported by verifiable data (attendance, test results, etc.) where required.
- III. The terms of the report should be discussed with other colleagues who have a responsibility for the child (learning support teacher etc.) and with the principal teacher.

Generally, the prior written consent of parents should be sought where outside agencies are seeking a report on a child. There may be circumstances where it may not be appropriate to obtain the prior written consent of the parents (e.g.) cases involving alleged child abuse. In such cases the terms of “Children First” will be followed.

The staff of Ballinahinch N.S. will endeavour at all times to deal sensitively and caringly with children experiencing difficulties during periods of separation or custody.