



# DECISION MAKING RESPONSIBILITY FOR STUDENTS

## POLICY

Please note: *The body of this policy is a direct copy of the DEECD Policy with the exception of sections relating to Mature Minors which has not been included.*

### Rationale:

Woodville is a diverse community. We have many types of families and recognise that there are many types of arrangements within those families to provide care. It is our duty to ensure we follow informal and legal obligations to the students and families in our community.

### Aims:

- To ensure staff are aware of their obligations in relation to Court Orders and custodial matters pertaining to students at Woodville Primary School
- To provide a guide as to who is responsible for students and the common decisions that need to be made in relation to their education and welfare.

### From DEECD website – June 2014

#### Policy

In determining who is responsible for making a specific decision in relation to a student, the principal or relevant staff member should consider the following:

- Whether the student is an “adult” or “mature minor.” If so, the student can make his or her own decisions.
- If the student is not an adult or mature minor, consider the following:
  - Parental responsibility
  - Whether there are any of the following Court orders in place:
    - Parenting Order
    - Family Violence Protection Order
    - Protection Order.
- Whether there are any of the following informal arrangements in place:
  - Parenting Plan
  - Carer.
- Consider the decision that needs to be made:
  - Does it relate to a long term issue about the care, welfare and development of the student? If so, then the following persons can make the decision on behalf of the student:
    - The persons with “parental responsibility” for “major long term issues”
    - The person who has “guardianship” of the child or young person
    - The person who has been given responsibility for this decision pursuant to a Court Order or Parenting Plan.
  - Does it relate to other issues about the care, welfare and development of the student? If so, then the following persons can make the decision on behalf of the student:
    - The person with “parental responsibility” who is spending time with the child or young person at the particular time
    - The person who has “custody” of the child or young person
    - The person who is the “carer” of the child or young person.

It is the responsibility of principals and staff to request copies of relevant court orders or informal arrangements that are in place.

Parents, guardians and/or carers are responsible for providing principals and staff with up-to-date information and documentation relating to relevant court orders or informal arrangements that are in place.

## Children and young persons

In determining who can make decisions in relation to children and young persons who are not adults of mature minors, it is important to consider all of the following:

### 1. Parental responsibility

Parental responsibility is defined as all of the duties, powers, responsibilities and authority which, by law, parents have in relation to children.

Each parent of a child under 18 years of age has parental responsibility for the child unless this responsibility is varied by a relevant Court Order or Parenting Plan.

### 2. Relevant Court Orders

#### *Parenting Orders*

Parenting Orders are Court orders made pursuant to the Family Law Act 1975 (Cth) and may deal with any of the following issues:

- Person with whom the child is to live
- The time a child is to spend with another person
- Communication a child is to have with another person
- The allocation of parental responsibility
- Any aspect of the care, welfare, or development of the child.

In allocating parental responsibility, the Parenting Order may differentiate between “major long term issues” and other issues.

Major long term issues are issues about the care, welfare and development of the child of a long term nature and include the following:

- The child’s education (both current and future)
- The child’s religious and cultural upbringing
- The child’s health
- The child’s name
- Changes to the child’s living arrangements that make it significantly more difficult for the child to spend time with the parent.

Where more than one person is responsible for making decisions about “major long term issues,” it is expected that they will consult with one another, and make a genuine effort to come to a joint decision about the issue.

Where the decision to be made is not a major long term issue, the decision may be made by the person with whom the child or young person is spending time with. This person can make the decision without consulting with any other person who may have parental responsibility for the child.

#### *Family Violence Intervention Orders*

Family violence intervention orders are Court orders made pursuant to the *Family Violence Protection Act 2008 (Vic)*. They protect family members from behaviour committed by other family members.

Family violence intervention orders may provide for some or all of the following protections:

- Prohibit family violence
- Exclude a person from a particular residence
- Prohibit a person from approaching, telephoning or contacting another person
- Prohibit a person from being anywhere within a specified distance of where another person lives, works, attends school or child care
- If a child is to be protected by the Order and there is a parenting order in place, it may revive, vary, discharge or suspend the parenting order
- If a child is to be protected by the Order and there is no parenting order in place, it may

- Make arrangements for a child to live with, spend time with, or communicate with the person the subject of the order; or
- Prohibit the person the subject of the order from living with, spending time with, or communicating with the child protected by the Order.

#### *Protection Orders*

Protection Orders are Court orders made pursuant to the Children, Youth and Families Act 2005 (Vic). These Orders may grant custody and/or guardianship of a child to a person other than the parent of the child.

When a protection order grants guardianship, it is allocating the right and responsibility for the long term welfare of a child.

When a protection order grants custody, it is allocating the right and responsibility to have the daily care and control of a child; and the right to make decisions regarding the daily care and control of the child.

### **3. Relevant informal arrangements**

#### *Parenting Plan*

A Parenting Plan is a written agreement that meets all of the following characteristics:

- It is made between the parents of the child
- It is signed by the parents of the child
- It is dated
- It deals with some or all of the following matters:
  - Person with whom the child is to live
  - The time the child is spend with a person
  - The allocation of parental responsibility
  - Any aspect of the care, welfare or development of the child.

A Parenting Plan is binding and can affect the allocation of parental responsibility even though it not an Order made by a Court.

In addition, a Parenting Plan can be made after a Parenting Order. In such circumstances, the Parenting Plan can vary the Parenting Order made by a Court.

#### *Informal Carer*

An informal carer is an adult with whom the child is living. The arrangement is informal and is not usually defined by any Court Orders or written agreements.

A carer does not have parental responsibility, guardianship or custody of the child.

It is recommended that informal carers complete an Informal Carer Statutory Declaration form. This is a written statement in which the carer signs and declares that certain information is true and correct. This information should include the following:

- he or she has day to day care of the child;
- the parents are aware and/or consent to the arrangement; and
- explain the reasons for the arrangement.

More information about informal carers and copy of this form, see: [Admission](#)

### **4. Decision to be made**

Decision to be made	Who is responsible if the child or young person is not an adult or mature minor
<ul style="list-style-type: none"> <li>• Enrolment/transfer</li> <li>• Year level movement</li> </ul>	<ul style="list-style-type: none"> <li>• Persons with parental responsibility for “major long term issues”</li> <li>• Persons with guardianship</li> <li>• Persons allocated this responsibility pursuant to a Court Order or Parenting Plan</li> </ul>

Decision to be made	Who is responsible if the child or young person is not an adult or mature minor
	See: <ul style="list-style-type: none"> <li>• <a href="#">Enrolment</a></li> <li>• <a href="#">Transfers</a></li> <li>• <a href="#">Attendance</a></li> </ul>
<ul style="list-style-type: none"> <li>• Nomination of emergency contacts</li> </ul>	<ul style="list-style-type: none"> <li>• Persons with parental responsibility</li> <li>• Persons with custody</li> <li>• Persons who are carers</li> </ul>
<ul style="list-style-type: none"> <li>• Non – attendance at school when it is open for instruction</li> </ul>	If it relates to a specific day(s) <ul style="list-style-type: none"> <li>• Persons with parental responsibility</li> <li>• Persons with custody</li> <li>• Persons who are carers</li> </ul> If it relates to chronic non-attendance <ul style="list-style-type: none"> <li>• Persons with parental responsibility for “major long term issues”</li> <li>• Persons with guardianship</li> <li>• Persons allocated this responsibility pursuant to a Court Order or Parenting Plan</li> </ul> See: <a href="#">Student Engagement</a>
<ul style="list-style-type: none"> <li>• Leaving school early / commencing late</li> </ul>	<ul style="list-style-type: none"> <li>• Persons with parental responsibility and with whom the child is spending time with</li> <li>• Persons with custody</li> <li>• Persons who are carers</li> </ul>
<ul style="list-style-type: none"> <li>• Development of Student Health Support Plan</li> </ul>	<ul style="list-style-type: none"> <li>• Persons with parental responsibility for “major long term issues”</li> <li>• Persons with guardianship</li> <li>• Persons allocated this responsibility pursuant to a Court Order or Parenting Plan</li> </ul> See: <a href="#">Health Support Planning Forms</a>
<ul style="list-style-type: none"> <li>• Development of Individual Learning Plan</li> <li>• Development of Behaviour Management Plan</li> </ul>	<ul style="list-style-type: none"> <li>• Persons with parental responsibility for “major long term issues”</li> <li>• Persons with guardianship</li> <li>• Persons allocated this responsibility pursuant to a Court Order or Parenting Plan</li> </ul> See: <a href="#">Student Engagement</a>
<ul style="list-style-type: none"> <li>• Consent to participate in day excursion</li> </ul>	<ul style="list-style-type: none"> <li>• Person with parental responsibility and with whom the child is spending time with</li> <li>• Persons with custody</li> <li>• Persons who are carers</li> </ul> See: <a href="#">Excursion - Parent or Carer Consent</a>
<ul style="list-style-type: none"> <li>• Consent to participate in overnight excursion, camps, overseas excursions</li> </ul>	<ul style="list-style-type: none"> <li>• Persons with parental responsibility for “major long term issues”</li> </ul> It is important to note that where there is a parenting order or a pending application for a parenting order, it is an offence for a person to take or send a child outside Australia unless it is with the written consent of each person with parental responsibility. <ul style="list-style-type: none"> <li>• Persons with guardianship</li> <li>• Persons allocated this responsibility pursuant to a Court Order or Parenting Plan</li> </ul> See: <a href="#">Excursion - Parent or Carer Consent</a>

Decision to be made	Who is responsible if the child or young person is not an adult or mature minor
<ul style="list-style-type: none"> <li>Consent to referral to student support service officers</li> </ul>	<ul style="list-style-type: none"> <li>Persons with parental responsibility for “major long term issues”</li> <li>Persons with guardianship</li> <li>Persons allocated this responsibility pursuant to a Court Order or Parenting Plan</li> </ul> See: <a href="#">Student Support Services</a>

### Managing Disputes

Whenever faced with a dispute between persons who are responsible for decision making in relation to a child, principals and staff should:

- avoid becoming involved
- avoid attempting to determine the dispute
- act neutral and not adopt sides
- act in the best interests of the child of young person involved
- act in the best interests of the school community.

Schools are not the place to resolve disputes. These disputes should be resolved between the parents/guardians through discussion, attendance at the Family Relationship Centre or at Court.

Legal Division may be contacted by the Principal or Assistant Principal in complex cases.

#### Evaluation:

- This policy will be updated as DEECD policy is updated

This policy was last ratified by School Council in....

**June 2014**