

## Governance support resources

### Parenting disputes - supporting statements

The school should ensure there are clear procedures for staff to follow when there are parent-related issues. Such issues include requests by parents or lawyers for a statement about one of their students to be used in a parenting dispute. Such requests should always be made through the principal or deputy principal.

Some points to consider are set out below:

- There is no legal obligation to make a statement in the absence of a court summons ("sub poena").
- Schools (boards) are agencies subject to the Privacy Act 1993. They are not permitted to disclose personal information unless an exception applies. One of the exceptions is where legal proceedings have commenced or "are reasonably in contemplation". (See section 6, Principle 11 of the Privacy Act).
- Schools should always place the child's wellbeing at the centre of all that they do. They should therefore consider whether it is wise to take sides with one parent. This could affect the school's relationship with the other parent and put the child at a disadvantage. There is also the possibility that the parent may "slant" information given to meet their own ends.
- NZSTA's Advisory and Support Centre advises that generally it is preferable if statements about a child are made to the child's lawyer (previously known as counsel for the child). This person is appointed by the Family Court to safeguard the best interests of the child. They are a neutral person, and staff making statements to them are less at risk of being seen by either parent as taking sides.
- If statements made to lawyers are going to form part of a report to be presented to a court, the school should ask to see a copy so they can ensure they are not misquoted.
- Schools should be aware that if their staff make statements in the form of affidavits (sworn statements in writing), they could be summonsed to a Family Court hearing and cross-examined by lawyers.
- Schools should not respond to oral requests. They should also take reasonable steps to ensure the bona fides of the person asking for the statements. Lawyers for either parent should be asked to provide an authority to act signed by the person for whom they are acting. In the case of the child's lawyer, they can be asked to provide the court documentation appointing them to the role.
- Schools should ensure that statements are limited to known or observed facts. They should ensure any opinions are based on objective evidence in areas within the staff member's professional expertise as educator.
- Above all, schools should aim to keep any parenting dispute as much outside the school gate as possible!

#### More information:

Ministry of Justice website: <http://www.justice.govt.nz/family/care-of-children/when-you-dont-agree/disagreements/>

Ministry of Education website: <http://www.educationalleaders.govt.nz/Problem-solving/Education-and-the-law/Community-whanau-family/Court-appointed-lawyers>

Privacy Commissioner website: <https://privacy.org.nz/the-privacy-act-and-codes/privacy-principles/limits-on-disclosure-of-personal-information-principle-eleven/>

Family Court Practice Note 26.3.15: <http://www.justice.govt.nz/assets/Documents/Publications/fc-lawyer-for-the-child-selection.pdf>. Go to the website's search engine if the link is broken.

Guide for lawyers representing children (NZLS 2002): [https://www.lawsociety.org.nz/\\_data/assets/pdf\\_file/0004/69763/c4cprotschools.pdf](https://www.lawsociety.org.nz/_data/assets/pdf_file/0004/69763/c4cprotschools.pdf) NB - some of this information is out of date. Go to the website's search engine if the link is broken.



 [nzsta.org.nz](http://nzsta.org.nz)  
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 [twitter.com/NZSchoolTrustee](https://twitter.com/NZSchoolTrustee)

### Where do I get advice?

The *Governance advisory and support centre* advisers can also assist and are contacted on 0800 782 435, option 1 or [govadvice@nzsta.org.nz](mailto:govadvice@nzsta.org.nz)