

## **National Family Law and the Schools Policy**

In 1994 the Family Law Reform Association, NSW lobbied the NSW Education Department for a new Family Law and the Schools Policy. Subsequently, we were invited to assist in the drafting of a new policy which did not discriminate against either parent. In August 1997, the department released its new Family Law and the Schools Policy, followed by their most recent update of 8<sup>th</sup> June, 2008. There are no hard copies available, but you can view it on their website [www.schools.nsw.edu.au/gotoschool/familylaw](http://www.schools.nsw.edu.au/gotoschool/familylaw)

The Catholic Education Commission in NSW endorsed the state school policy, but we were having problems getting the independent schools to come on board, due to the fact that they all have their own administration. We then became aware of the fact that all schools, both public and private, receive considerable federal funding. We thought that to receive this, they should meet a certain criteria, which would bring them into line with state schools. Having a National Family Law and the Schools Policy would also assist those Australian states who are finding it difficult to persuade their state governments to reform their policies.

Following the introduction of the Family Law Amendment (Shared Parental Responsibility) Bill in 2006, we realised that it was an opportune time to start lobbying our Federal Education Minister. We therefore put a submission to the then Minister for Education, Julie Bishop, who very politely told us that it was a state responsibility. We continued lobbying, but in the meantime we had a change of federal government and we have now set about lobbying the new Minister for Education, Julia Gillard.

In our letter to Ms Gillard, dated 7<sup>th</sup> February, 2008, we stated that if we are to be serious in encouraging shared parenting arrangements between parents following separation, in accordance with the Shared Parental Responsibility Bill, it surely stands to reason that both parents must clearly share school involvement, wherever possible. The Bill promotes the right of children to know both their parents and encourages people to resolve post separation parenting arrangements outside of the courts. Our concern is that without specific direction from government, these reforms will fail to engage the education authorities, as evidenced by past practice.

In support of our submission, the following data was provided:

The U.S. Department of Education in 1997 found that in their thirty years of research, the conclusion was that children benefit from family involvement in their education. Children also benefit when both parents are involved in their schooling. In a study for the U.S. Department of Education involving 6,908 non-resident parents, in 1997 Nord et al found that when non-resident fathers were involved in schools, children were less likely to have ever been suspended or repeat a grade and were more likely to obtain higher academic grades than children whose non-resident fathers were not involved in their children's schooling. Positive results also occur for non-resident mothers' involvement. In the only Australian study to specifically target this parent population on this topic, in 2002 Baker and Bishop reported that for a volunteer sample of 221 non-resident parents, 79% reported low to very little school involvement. However, 91% of these non-resident parents stated that they desired increased school involvement. Moreover, this issue is of concern to both non-resident fathers and non-resident mothers (Baker and Bishop, 2005).

Moreover, there is compelling evidence from the literature, including meta-analytic studies involving thousands of children, that children from separated and divorced families show academic and social deficits (Amato, 2001; Reifman, Villa, Amans, Rethinam & Telesca, 2001). These conclusions are confirmed by Australian data (Evans, Kelley & Wanner, 2001)

Obviously schools and education authorities need to work in the spirit of the new reforms and we suggested two mechanisms available to the Government to foster that process for private schools. Firstly, all schools, both public and private, receive significant federal funding and it is therefore appropriate for the Government to expect that Australian schools receiving federal funding develop new family law policies to support both the spirit and practice of the family law amendments. That is, we suggested that it is appropriate for the Government to request schools to develop non-discriminatory school involvement policies for non-resident parents on the basis that the Government contributes significant funding to these schools.

We then pointed out to Ms Gillard that a benchmark model of a non-discriminatory policy has been operating for nearly a decade by the NSW Education Department, providing a tried and proven family law policy which can serve as an example for schools in other States and Territories. This family law policy for schools, developed in collaboration between the NSW Department of Education and the Family Law Reform Association NSW, has also been adopted by the NSW Catholic Education Commission, meeting with the approval of school personnel and parents.

The second mechanism we suggested was that to further ensure both parents' continued involvement in children's schooling could be achieved via the network of Family Relationship Centres. The FRCs offer a unique opportunity to assist parents to resolve the post separation arrangement of school involvement outside the courts by ensuring that school personnel, including school psychologists, are able to meet with FRC staff at the earliest stage of negotiations. This strategy, together with non-discriminatory school policies, stands to offer the most sensible and cooperative framework to assist parents negotiate workable and flexible arrangements to share parenting responsibility in relation to their children's educational progress.

Given the overriding importance of education in children's lives and the significant amount of time children spend at school, we suggested that this issue be central to any successful post separation shared parenting arrangements.

## **Update**

On 10<sup>th</sup> June, 2008, we received a letter from the Federal Department of Education, Employment and Workplace Relations National Education Agreement Taskforce which stated that

*".....they agree that there is compelling evidence that parental involvement in children's education has a powerful impact on the children's achievement and engagement. Families are the first educators of their children, and they continue to influence their children's learning and development during the school years.*

*The Department appreciates the intent of your submission and is conscious of the problems faced by schools. It is an unfortunate but common situation that teachers*

*and school staff are asked to make decisions regarding family issues. While schools need to consider primarily the best education interests of the child, these situations are complex and often distressing for those involved.*

*The Commonwealth Government does not however have a role in the internal management of schools and school systems. Internal policies for schools are the responsibility of the relevant school system authority, or the peak representative bodies for non-government schools.*

*As you indicate in your submission, the Commonwealth Government provides schools funding to the states and territories and to non-government schools; discussions are currently underway regarding schools funding beyond 2009. The Government has been working with states and territories, through the Council of Australian Governments (COAG) and its newly established working groups, to develop a new framework for Specific Purpose Payments across all portfolios, including school education”.*

The Department went on to advise our Association of avenues to take in each State and Territory, including Family Relationship Centres.

We find this to be unsatisfactory, as it would present a huge impost on a few volunteers to contact all State and Territory education departments, as well as Catholic Education Commissions and all Independent Schools.

The matter is now in the hands of the Federal Attorney-General.

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