



## SAGE COLLEGE – POLICIES AND PROCEDURES 2020/21

# DIVORCED/SEPARATED PARENTS POLICY

### APPLICABLE LEGISLATION

The Spanish regulations governing the rights of separated/divorced parents with children and the regulations of the Educational Centres are mainly contained in the following articles:

- Spanish Constitution: Articles 27.3 and 27.7.
- Civil Code: Articles 154 to 170.
- Education Law. Organic Law 10/2002 of 23 December. Articles 3.1, 3.2 and 3.3.
- Organic Law 2/2006 of 3 May. Articles 12.1, 12.2 and 12.3 Articles 71.4, 79.3, 84.3, 84.9, 108.6, 115.1, 119.1, 119.2, 119.3, 119.4, 119.5, 121.5, 126.1 y 126.3.
- Organic Law 8/1985 of 3 July 1985. Article 4.
- Law on the Legal Protection of Minors. Organic Law 1/1996.
- Ley de Sanidad Ley 14/1986 de 25 de abril (published in the B.O.E. on 29.04.1986).
- Articles 10.1, 10.5, 10.8, 10.11.
- Right to Welfare Information. Law 41/2002 of 14 November (published in the B.O.E. on 15.11.2002). Articles 4.2, 4.3, 5.1, 5.2, 5.3, 5.4, 18 and 18.2.
- Penal Code. Articles 511.1, 511.2, 511.3 and 512.
- Organic Law on Data Protection (L.O.P.D.). Law 15/1999 of 13 December. Articles 14, 15, 16, 17, 18, 19, 43, 44 y 45.

As a general legal presumption, in the absence of written notification from either parent of the existence of a separation (legal or de facto), divorce or any other situation involving family conflict, the actions of both parents, whether carried out jointly or individually, must be considered to be in the best interests of the minor child.

### CLARIFICATION OF TERMS

- **GUARDIANSHIP AND CUSTODY:** This is the set of measures and decisions that the parent, in whose care the child remains, must adopt to guarantee the daily development of the child. Today it is a question of shared custody for the good of the children.
- **CUSTODY AND MONOPARENTAL CUSTODY:** In the event of divorce, whatever the cause of the divorce, the judge grants custody to one of the parents, attributing to the other parent the right of visits and the payment of maintenance.
- **SHARED GUARDIANSHIP AND CUSTODY:** This is the legal situation whereby, in the event of separation or divorce, both parents exercise the legal custody and guardianship of their minor children, under equal conditions and with equal rights over them.
- **PARENTHOOD:** The rights and obligations of parents towards their children. In separations or divorces, it is established by default that the PARENTHOOD will be SHARED by both EX SPOUSES. Depriving a parent of parental authority means protecting the child by ceasing to act as a parent.

In very rare cases, a parent is deprived of parental authority. For this to happen, there must be very serious circumstances, it must be taken exceptionally, and it will be taken by a Judge in a Judgment, although it can be granted again if the circumstances that led to the withdrawal have changed. He also



said that it can be total or partial deprivation. As a general preventive rule in these cases it is very important.

## ADMISSION

It must be made with the full details of the father and mother, or legal guardians, regardless of their marital status, for which the parent making this application must be required to provide documentary proof of parental authority and custody. Only one application will be accepted for each pupil, which must be signed by both parents or legal guardians.

In the event that there is no agreement on the centre requested for their children, or when one of the parents has not been able to sign the application for any reason (absence, illness, etc.), the applicant parent must sign a "sworn statement" indicating the reasons for this omission and undertaking to inform the absent parent of the decisions taken in the academic field.

## ENROLMENT

a) At the time of the pupil's enrolment at the school, the fact that the parents are separated or divorced must be stated, providing the school with a copy of the Regulatory Agreement and the Court Sentence. Any change of judicial measures must also be communicated to the school immediately.

b) At the time of enrolment, the pupil will be included in the list of pupils with separated parents with the relevant information on charges and authorisations. Any change in the legal arrangements will be recorded on this list. This list will be made available to all teachers and the dining room coordinator for their knowledge. will place a post-it in the level folder of the specific pupil, so that the teacher can go to the headmaster's office and consult the judgement and protocol of action. The pupil remains under the "Custody of the Centre" from the moment he/she is handed over by the parent until the centre hands him/her over to the corresponding parent at the end of the school day. Always in accordance with the provisions of the Court Sentence. The Centre must provide a list of the persons authorised by the parents (both) to collect the pupil and they must also identify themselves when collecting the pupil (see administration model).

c) The Centre will have the telephone numbers and e-mail addresses of both parents.

d) An incident folder will be registered at the Head Office where the action taken with the specific pupil will be recorded (when picking up the pupil at the school exit).

## EXTRAORDINARY DECISIONS AUTHORISED BY BOTH PARENTS

a) The choice of subjects that affect religious or moral formation.

b) The enrolment of the pupil in the school canteen service.

c) The withdrawal of the pupil from the centre and the processing of the transfer of the pupil's file.

d) The change from ordinary educational modality to special educational needs.

e) In general, any decision that exceeds the ordinary ones.

f) Long-term excursions during school and non-school hours.

## ACTION BY TUTORS AND SPECIALISTS PARENTS' RIGHT TO INFORMATION.

Both parents have the right to receive the same information about the circumstances of their child's educational process, which obliges the Centre to guarantee the duplication of information regarding the educational process of their children.

The following criteria shall be followed:



- The non-custodial parent must request this information in writing to the centre, accompanying a reliable copy of the judicial resolution (sentence, order or ruling) or agreement. When there is no court decision or agreement, the information shall not be refused, unless the custodial parent provides a court decision or reliable agreement to the contrary.
- The parent who has custody of the child shall be notified of the application and of the copy of the court decision or agreement provided, for the sole purpose of providing, where appropriate, a decision within ten days of the judicial review, and shall be informed of his or her right to provide any documents and allegations he or she deems appropriate.
- If the last judicial decision provided does not establish the deprivation of parental authority or any type of penal measure that prohibits communication with the victim or his/her family, the centre shall duplicate the documents relating to the pupil's academic progress.
- In no case shall complaints, lawsuits, extrajudicial claims of any kind, or any other document that does not consist of a judicial resolution or agreement between the parents recorded in a public document, be admitted.
- This regime will be maintained as long as neither parent provides relevant information in the form of verifiable subsequent resolutions or agreements.

*Such information will include:*

- a) The right to receive school grades and verbal information.
- b) The information provided by the tutors, so both the tutoring hours must be provided to both.
- c) The school calendar and the program of school and extracurricular activities such as excursions, visits to museums, farm-school stays, etc. It is convenient that both parents authorize any activity at the beginning of the course so that the normal functioning of the Center is not altered.
- d) The calendar of parties and celebrations to which the attendance of non-Center personnel is authorised.
- e) In case of accidents and illnesses, the father and mother must be called.
- f) The list of absences, reason for these and justification, if they request it. Both for school hours and for school canteen if they go to the service.
- g) The medical treatment that he may be receiving at the school.
- h) The school cafeteria menu.
- i) The right to know in what hygienic, physical, and nutritional conditions their children arrive at school.
- j) The calendar of elections to the School Council.

## ADVICE AND ACTIONS TO BE TAKEN INTO ACCOUNT

- a) Always and only comply with what is ordered in court decisions (in case of doubt, you can contact the Court to confirm its authenticity or check if it is the latest court decision). Lawyers' documents have no value.
- b) The information and documentation of an academic nature about the minor will be provided exclusively to parents, judges and prosecutors, as they include data regarding the privacy of their children to which only parents have access. Therefore, if this information is requested by the lawyer of one of the parents, a copy of the power of attorney granted by the represented parent must accompany their written request. The judicial decisions that are delivered in the tutoring must be sent to the Directorate of the Center and if they are delivered in the Directorate, the tutors and level teachers must be informed.
- c) Any internal modification of the sentence that the parents give us must be signed for both. The father or mother deprived of parental authority over their child does not have the capacity to



intervene in the educational process of the minor, so they do not have any right to be informed. Not to be confused with not having custody and custody.

- d) The authorisations of the Center must be endorsed by the parent who has the guardianship and custody of the minor. Except pickup
- e) Unless there is an express judicial decision, the parent who has to pick up the minors can delegate the pick up to another person and the other parent cannot always refuse. Only a real reason of danger to the minor could justify the refusal to surrender to a person other than the parent. The refusal to surrender the minors could be the subject of a complaint, since the relationship of the minors with that parent is being hindered.

At the request of the father or mother for a NON-ACADEMIC report on their child TO PROVIDE IT TO LAWYERS OR TRIALS The tutor is not obliged to make any type of report about the student, only if that information is requested from us by a court.

The express written authorisation of the parent who has custody and custody is mandatory. so that the other non-custodial parent can visit their child at the school headquarters or proceed to pick them up at the time of departure (THE DAYS THAT DO NOT CORRESPOND TO THOSE MARKED IN THE JUDGMENT OR THOSE COMMUNICATED BY THE PARENT WHO OSTENTE THE GUARD AND CUSTODY.)

#### **PROTOCOL FOR DEALING WITH SEPARATED PARENTS WITH SHARED CUSTODY AND GUARDIANSHIP.**

- In individual tutorials, both parents must be notified.
- Both parents have the same rights.
- Any change in the sentence must be communicated by both.
- Double Communication Letters doubles.
- Double report cards.

#### **PROCEEDINGS BEFORE SEPARATED PARENTS WITH PARENTAL AUTHORITY IN A SINGLE PARENT/ PROGENITOR**

- It must be specified in the judicial sentence that is delivered to us in the School of this situation.
- In these cases, the center does not have to facilitate or communicate in any situation with the parent who has withdrawn parental authority. (Moreover, we should protect the student from the parent who does not have it since they can pose a danger to their meeting or communication).  
\*\*\*\*\* These cases are not usually given.