## Blind & Low Vision Education Network NZ

# Operational Policy: Non Custodial Parents Access to Ākonga and their Records (NAG 6)

## Statement of Intent:

The Blind & Low Vision Education Network NZ (BLENNZ) has a responsibility to ensure the physical and emotional well-being of its ākonga and that all Court Orders in relation to ākonga are complied with.

To ensure BLENNZ plays its part in facilitating communication with parents/guardians, unless a custody order by the Court forbids a parent to have access to their child, or the access is subject to conditions, non custodial parents shall have the same contact with their child, and access to their child’s records, as custodial parents.

## Definitions:

“Custodial parent” means the person who has been granted physical custody of the child/ākonga.

“Non custodial parent” means a parent who has not been granted physical custody of a child/ākonga as a result of a court order, decree, judgment or other adjudication. In the case of a court order giving a third party such as legal guardian grandparents, or foster parents, the right to physical custody of a child/ākonga, both biological parents are non-custodial parents.

“Guardian” is defined as a person, other than a parent, who has lawful custody of a child/ākonga, as established by a court order.

“Custody” refers to the rights and responsibilities of a parent/guardian with respect to a child/ākonga, including the right to physical access and the right to make decisions with respect to the child/ākonga’s health, education and welfare in the best interests of the child/ākonga.

"Court order" shall mean any order, decree, judgment, or other adjudication from a court of competent jurisdiction.

## Policy Requirements:

1. BLENNZ will comply with all Court Orders and Directives it is made aware of. These orders must be in writing.
2. Upon receipt of a copy of the Court Order or Directive BLENNZ will record the names of the people who by law have been forbidden access to their child or have a right of access subject to conditions. This information will be recorded as a “warning alert” on the ākonga’s file and on the relevant database and appropriate staff made aware of the situation.
3. The custodial parent(s) will be responsible for providing BLENNZ with any court orders affecting a parent's right of access to records or contact with their child. Unless there is a non access order, in writing, both parents will have equal rights. The only exception to this is where the court order is provided through Oranga Tamariki.
4. Special note will be taken where parents live apart. Addresses and contact phone numbers of parents/guardians will be recorded on enrolment forms. Both parents will automatically be considered as contact persons in cases of emergency unless a parent requests not to be contacted, or there is a legal reason not to inform a parent.
5. Upon request, non-custodial parents shall be entitled to exercise all parental rights regarding ākonga records, including the right to request that the records be forwarded to other parties, unless restricted by law or court order.
6. On request, non-custodial parents shall have the same right as custodial parents to attend regularly scheduled teacher meetings, IEP meetings, and to obtain copies of records of meetings unless the non-custodial parent is restricted by law or court order. If divorced or separated parents request separate teacher meetings, the Principal shall have the discretion to grant or deny such a request. Non-custodial parents shall also have the same rights as custodial parents in obtaining general notices such as parent organizations, announcement of teacher meetings, and school photos.
7. If ākonga are in the custody of Oranga Tamariki all contact, correspondence and documentation must go through the Oranga Tamariki case worker. If a parent arrives at the school and seeks to take their child, Oranga Tamariki guidelines should be followed (in this case the parent would take the child and the school would notify the police and Oranga Tamariki).
8. While attending a BLENNZ facility, programme or activity ākonga will be released only to the custodial parent unless the custodial parent has granted written permission for ākonga to be released to someone else. BLENNZ may reasonably require custodial and/or non-custodial parents to provide identification prior to allowing physical access to their child.
9. In terms of the Education (Hostels) Regulations 2005, in the case of residential ākonga, BLENNZ must ensure that the parent(s) of a boarding ākonga can have contact with, or access to, their child whenever the ākonga is present at the hostel; and no good reason exists to deny that contact or access (Section 66). Good reason exists if the parent:
	* + 1. is subject to an order of a court that prohibits contact with, or access to, the boarder (either with respect to the boarder generally, or while the boarder is accommodated at the hostel); or
			2. is subject to a warning under section 4 of the Trespass Act 1980 to stay off the premises; or
			3. is suffering from an infectious disease, or from some other disease, that is contagious and is likely to harm the boarders if passed on to them; or
			4. is, in the opinion of a responsible person, under the influence of alcohol or any other substance to the extent that it is in an actual or potential cause or source of harm to the parent or another person or both; or
			5. is, in the opinion of a responsible person, exhibiting behaviour that is or is likely to be disruptive to the hostel’s effective operation.

### Homai Early Childhood Centre

The Education Act 1989 sets out the right of entry to early childhood education (ECE) services for parents and guardians. It is essential for ECE services, in particular the person responsible, to be aware of day to day living arrangements for ākonga in their care and to have emergency contacts for each child.

Section 219A of the Education Act (1989) states:

The parent or guardian of a child has a right of entry to a licensed early childhood education and care centre whenever the child is there, except if the parent or guardian:

* is subject to an order of a court that prohibits access to, or contact with, the child, either generally or with respect to the child while, or at a time when the child is, attending the centre or service; or
* is subject to a warning under section 4 of the Trespass Act 1980 to stay off the premises; or
* is suffering from a contagious or infectious disease likely to have detrimental effect on the children if passed on to them; or
* is, in the opinion of a person responsible for the operation of the centre or service, under the influence of alcohol or any other substance that has a destrimental effect on the functioning or behaviour of the person; or
* is, in the opinion of a person responsible for the operation of the centre or service, exhibiting behaviour that is or likely to be disruptive to the effective operation of the centre or service.

Further information on professional practice regarding separated parents/guardians is available on the Ministry of Education’s website.

## Supporting Documents

[Justice Department website - Law concerning responsibility for Children](http://www.justice.govt.nz/publications/publications-archived/2000/responsibilities-for-children-especially-when-parents-part-discussion-paper-august-2000/what-is-the-current-law)

[Ministry of Education Hostel Licensing Regulations](http://www.education.govt.nz/school/running-a-school/hostel-regulations/frequently-asked-questions/new-collapsible-item-2/)

[Ministry of Education website](http://www.education.govt.nz/)

[Ministry of Education website - Early Childhood Services](http://www.education.govt.nz/early-childhood/)

[Oranga Tamariki website](http://www.orangatamariki.govt.nz/)

  4 February 2019

Approved: …………………… Date: ……………………..

 (Principal)