

BLP BRIEF

Schools and Intervention Orders

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By Tyson Brennan

I was recently contacted for assistance by a Principal who was unsure about the position their school should take in relation to a Family Violence Protection Order that affected one of its students.

The situation involved a Family Violence Protection Order being taken out against the father of the student. The student, the student's mother and the student's siblings were protected persons under the Order. The terms of the Order did not allow for the father to have any contact with the student, nor to be within 200 metres of the student's school.

In direct contradiction of the terms of the Order, the student's mother advised the school in writing that she permitted the student's father to pick up the student from school on Tuesdays, Wednesdays and some Fridays.

What was the school supposed to do?

Intervention Orders (IVO)

In Victoria, there are 2 types of intervention orders:

1. Family Violence Protection Orders
2. Personal Safety Intervention Orders.

An IVO is an order made by a Court in circumstances where a person considers they require protection from another. An IVO will contain terms restricting certain behaviours of the respondent. Commonly, those terms will limit contact between the affected person and the respondent and mandate methods of communication.

A party to an IVO, be it a respondent or an applicant, can be charged with a criminal offence if they fail to comply with the terms of an IVO. Breaching an IVO can result in significant penalties including fines and incarceration.

IVOs and Schools

IVOs can have significant impact on schools, placing the Principal in a stressful and difficult situation.

An affected student's parents/guardian should provide the school with relevant information and documentation about an active IVO. Where a school or Principal becomes aware of an IVO which affects a student of the school, the school and the Principal should take steps to familiarise themselves with the terms of the IVO and the way in which it will impact upon its

student management practices. Where applicable, the school will be required to put in place an appropriate action plan to ensure the safety of the affected student.

Unfortunately, schools can often find themselves in the middle of family disputes and can be affected by the terms of an IVO. Of course, a school and its Principal should always remain impartial to a family dispute. The school should not take sides nor provide assistance to one of the parties.

What, therefore, should a school do where the parents of an affected student inform the school of arrangements which are contradictory to the terms of an IVO?

What should the school do?

As you are no doubt aware, schools owe a duty of care to all students to take all reasonable steps to maintain their safety and wellbeing and protect them from harm whilst they are within the school's care. Failing to protect a student from a foreseeable risk of harm can result in the school breaching its duty of care. It is also important to remember that a school's duty does not necessarily end as soon as a student leaves the school premises.

Where the school is made aware of an IVO, it is put on notice of potential dangers to a student and the school's duty of care will extend to protecting the student, so far as is practicable, from the harm anticipated by that IVO. Therefore, a school must not facilitate any arrangements that would breach the terms of an IVO as it applies to one of its students.

In such situations, the Principal should advise the parent, in writing, that the school must strictly comply with the terms of an IVO until such time as it is formally amended or revoked by the Court due to the duty of care it owes its students. The school must then put in place arrangements or action plans which ensure

compliance with the IVO as far as the school is concerned.

I must note that that some IVOs contain terms which permit parents to make arrangements for parenting matters which contradict the terms of an IVO. That term will commonly specify that any such arrangements are to be made in writing. Where those terms exist and a parent advises the school of parenting arrangements which contradict the terms of the IVO, the school should request a copy of the written agreement and ensure that the IVO permits such arrangements. Only then should a school allow for situations which breach the terms of an IVO. If in doubt, the school should seek legal advice on the terms and application of an IVO and contradictory parenting orders prior to taking any steps in relation to the IVO.

The Department of Education has released a policy which can provide some assistance to schools and school leaders about appropriate steps to take where an IVO affects members of the school. I encourage all principals to familiarise themselves with this policy.

How can Brennan Law Partners Assist?

If you are unsure about the terms of an intervention order and its effect on the school, please feel free to contact us at any time so that we can assist you with developing an appropriate strategy.



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