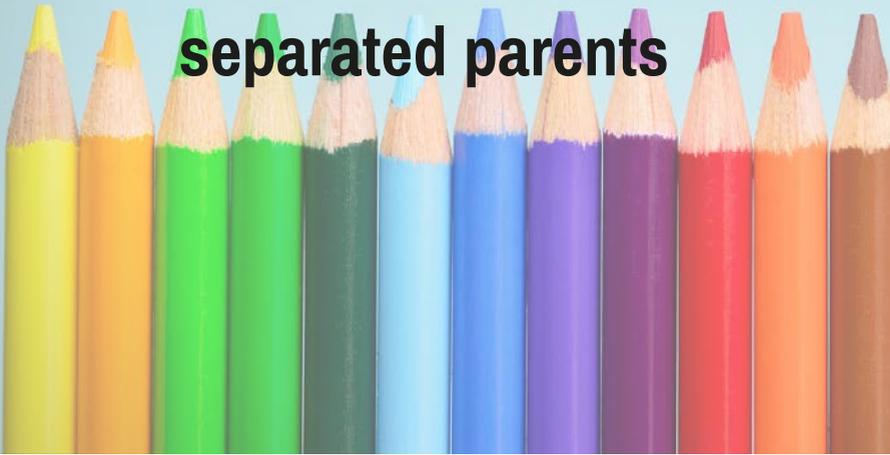


# How to decide where the children will go to school - tips for separated parents



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Issues around schooling and enrolment are common amongst separated parents and often incite disagreement. In situations like this, schools are often directly involved in such disputes, particularly where separated parents do not communicate with each other. This course of action should be avoided, and schools should not be responsible for managing and intervening in disputes. The issue of where a child is to attend school is to be decided by the parents.

## PARENTAL RESPONSIBILITY

Decisions regarding a child's current and future education, religion and changing their child's name are all "major long-term" decisions, which ordinarily need to be made jointly by both parents.

The Family Law Act provides a "presumption" that both parents have "shared parental responsibility". This includes jointly making decisions about "major long-term issues". When the Court makes a Parenting Order, the "starting point" is that both parents have equal "shared parental responsibility".

The "shared parental responsibility" presumption will exist unless the Court is satisfied that there are circumstances which make it inappropriate for the presumption to exist. If it can be proven that one of the parents has abused the child or been the perpetrator of family violence, then this presumption will be rebutted. If this occurs, a Court will typically grant the other parent with "sole parental responsibility" over "major long-term issues".

## EDUCATION AND SCHOOLING

Decisions to remove a child from and/or enrol a child in a school, serious behavioural problems (e.g suspensions and expulsions), and academic achievement are all examples of "major long-term

issues" relating to a child's education, which should be considered jointly by both parents (absent an Order for sole parental responsibility as discussed above).

If you sign an enrolment contract at a school unilaterally, without the other parent's involvement or consent, and the matter later comes before the Court, your action in doing so may seriously affect your credibility in the Court's eyes. The Court considers such action demonstrates a lack of willingness and ability to involve the other parent in the child's upbringing and facilitate the relationship between the child and the other parent.

In addition, you should be aware that if only one parent signs the enrolment application, the school's contractual relationship is only with that parent. This means the school will generally be unable to look to the other parent for payment of the tuition fees (irrespective of any oral/informal agreement between the parents about fees).

On the other hand, if you are the parent who is refusing to agree for a child to attend a particular school, it is also important to note that a school is not precluded from accepting the enrolment of the child simply because only one parent signed the application. It is not a matter for schools to ensure that parents comply with their obligations of parental responsibility under the Family Law Act 1975 (Cth).

## ACCESS TO SCHOOL INFORMATION

It is important to be aware that, most commonly the "resident" parent will receive information from the school such as student reports, student photographs and other documents regarding the child. If communication between separated parents has broken down, commonly such information is not passed onto the "non-resident" parent.

In such cases, it is appropriate for parents to request that the child's school provides to the "non-resident" parent a copy of the child's report cards, newsletters or any other written report related to the child.

However, if there is a specific Order for one parent to have sole parental responsibility, the school is not obligated to, and will not, provide the other parent with access to school information in respect of the child *unless* they have a written authority from the parent who has sole parental responsibility.

### CHANGING A CHILD'S NAME

It is also very important to be aware that changing a child's name is a "major long-term issue" which needs to be made jointly by both parents.

If you change your child's name unilaterally, for example when you enrol a child at a school, without the other parent's consent, and the other parent brings the matter before the Court, your decision may seriously affect your credibility before the Court.

Be aware that the Court does not make Orders changing a child's name lightly and only do so after consideration of a number of factors which are designed to determine the best interests of a child.

### WANT TO KNOW MORE?

Always remember it is not the school's responsibility to try to be a facilitator in a dispute, interpret or decipher Family Court Orders, or to act as the police or a Judge when parents disagree about matters pertaining to their child's education.

Family Law matters can be quite sensitive, especially when children are involved. If you would like advice to find out your options in relation to your child's education decisions please contact our office for a free chat with one of our Solicitors.



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