



# Separated parents and choosing your child's school

**Date: Monday April 26, 2021**

The choice of school your child attends is one of the major long-term decisions that is to be made by both parents. Unless the Family Court has [made an Order](#) to the contrary, both parents are required to consult with one another and consent to the choice or any change of a child's school. This includes signing all necessary enrolment documentation to ensure the child can attend that school.

## Separated parents must consult with each other

Parents seeking to change the school currently attended by their child or nominate an alternative school for their child to attend should ensure they make genuine attempts to consult with and discuss this issue with the other parent.

This should include issues such as:

the distance of the school from the respective residences and workplaces of each parent;

considering your current parenting arrangements and how practicable it will be to transport your child to and from this school;

whether your child has friends or siblings attending the proposed school;

if appropriate, the child's views about this school;

whether you and your partner have any prior agreement about what school the child would attend, i.e. are there any cultural or religious reasons for your child to attend a certain school, have pre-enrolment forms been previously submitted;

whether the child has any special needs that require extra support and does the proposed school, provide such support; and

if the school is a private paying school, who will pay the tuition fees and other expenses?

## What happens if we can't agree on a school?

The choice of school or changing a child's school is a common area of dispute between parents.

If, despite genuine attempts to consult on the choice of school, no agreement can be reached, you should invite the other parent to [mediation](#).

If no decision can be reached at mediation or another form of [alternative dispute resolution](#), your final option is to file an application in the Family Court seeking Orders.

## What Orders can I seek from the Court?

The Family Court is a highly discretionary jurisdiction. The Court will make Orders regarding an application to change a child's school based on the best interests of that child.

In reaching its decision, the Court will not undertake an exercise in comparing school results or NAPLAN results or private school versus public school. The Court will instead likely consider the practical considerations, such as the distance of the school from the parents' residences and workplaces in determining what Orders to make.

The Court, if it considers it appropriate, can make Orders to dispense with the requirement of a parent's signature on enrolment forms or for a child to attend a specific school until further order from the Court.

Often a parent will attempt to unilaterally enrol a child in a school without consulting with or seeking the agreement of the other parent. If this circumstance arises, you should seek urgent advice from an experienced family lawyer.

## Get help from a family lawyer

Given the delays within the Court system and the timing of school enrolments, if you are considering enrolling your child in a school and it is likely no agreement will be reached with the other parent, we recommend you seek legal advice from an experienced family lawyer as early as possible.

The team of solicitors at Meillon & Bright are experienced in applying for the enrolment of children at specific schools and

defending applications to attempt to change a child's school without consent.

If you require assistance with negotiating matters relating to your child's education, attending mediation on this issue or commencing or responding to Court proceedings, please contact the team at Meillon & Bright.

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*The information contained in this article is of general nature and should not be construed as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.*