



**ANDERSONS**  
S O L I C I T O R S

## LawTalk Blog



# Do I need to consult with my ex before changing my child's school?

**Date: Tuesday January 10, 2017**

By default at law, all parents have what is known as '[parental responsibility](#)' for their child. This means that decisions about major long term issues regarding a child are to be made jointly after consultation between parents.

In this blog, we're working with the scenario of two parents who are separated.

Education of a child is one of the major long term issues and therefore one parent should not make unilateral decisions about the education of the child, such as enrolling them in a different school without first obtaining the consent of the other parent.

After separation many peoples' circumstances change, including the financial resources available to both parents, the living arrangements for one or both parents and the amount of care each parent has of the child or children of the relationship.

It is very common after separation that the school the children are enrolled in may no longer be practical. Examples of this include:

- The parent with the weekly care of the child is now living a significant distance from the child's current school; or
- The child was previously enrolled in a private school but after the property settlement between the parties, it is no longer affordable for the child to remain in a private school.

**What does the court take into consideration?**

Changing a child's school should not be a decision made lightly. When the Family Law Courts are presented with cases where one party is seeking their child to be removed from their current school and enrolled in another school they need to consider whether that move would be in the best interests of the child.

There are many factors the court will take into account. Section 60CC of the *Family Law Act* provides a list of factors the court must take into account when determining the best interests of a child. The court has also has discretion to take into account any other matters they deem relevant.

Parents also need to know that if they apply to the Family Law Courts to make a decision about what school their child should be enrolled in, that process can take considerable time. Presently, the court could take six months or more to provide a judgment.

Here at Andersons we encourage our clients to try and negotiate and come to an agreement about matters like this without the need to enter the court arena. It is best for parents to first attempt family dispute resolution such as mediation to try and resolve these types of issues. If that fails they should seek legal advice from a Family Law specialist to assist them in negotiating an agreement with the other side.

Making an application to the court seeking orders about where a child is to attend school is a last resort.

---

*Please note, this Blog is posted in Adelaide, South Australia by Andersons Solicitors. It relates to Australian Federal legislation. Andersons Solicitors is a medium sized law firm servicing metropolitan Adelaide and regional South Australia across all areas of law for individuals and businesses.*