



# Family Law

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LAWYER

## Q

In our separation agreement my husband has decision-making over education but I have decision-making over medical decisions.

I want the children to learn at home and he wants the children to go to school. With Covid-19, aren't any decisions about remote versus in-person schooling, medical matters?

## A

As a result of the Covid-19 pandemic, schools have given parents the unprecedented option to choose whether their children attend school in person, or whether their children attend school remotely with distance learning. The issue in a situation like yours, is- who gets to make the decision?

This issue was addressed in a case called Joachim v Joachim, 2020 ONSC 5355. The mother brought an urgent motion seeking an order to give her sole decision-making authority over education and an order suspending or greatly reducing the father's parenting time with the children, being two girls eight and six years of age. She wanted the children to attend school virtually and not in-person.

The father sought an order to suspend the mother's in-person parenting time and to appoint a new parenting coordinator. He wanted the children to go to school. Both parents are employed as teachers. The mother had a 15-month-old with

her new partner, and both the baby and her new partner are immune-compromised.

What happened? Justice Summers noted that the return to school involved the children's physical and psychological health needs and normally the parties would make this decision together, however the parties could not agree. He decided that the risks to the health and well-being of the mother's household outweighed the benefits of in-class learning and the children now attend school online from the mother's home for the 2020 fall semester. Would this have been decided differently if no-one was immune-compromised and the mother was not a teacher? This is unclear.

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