



# Family Law

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YOUR EX DOES!



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LAWYER

## Q

My husband and I separated, and now we cannot agree where the children are going to school. The clock is ticking to enroll them, and I do not know what to do!

## A

The issue of the choice of children's schools falls under parenting clauses, which may have been dealt with in a separation agreement ["SA"] or a Court Order. Take a look at these documents; Is there a clause which states which school the children are going to attend? If not, is there a clause which spells out who makes decisions about the children's education, or who makes the final decision in the event of a disagreement? If there is, and circumstances have not changed, then it is a safe course of action to follow.

Be careful if you have final decision-making authority, that you have documented in email, what school you wish the children to be enrolled in, and why, and seek his written consent. If he refuses, take a closer look: does the SA or Order require the two of you to attend mediation or other step to settle this issue? If it does, you need to proceed on that basis.

If there is no Separation Agreement or Court Order, and the children have been in attendance in the same school for some time before the breakup, it is a safe bet to continue attendance at that school. Where it gets confusing, is when the matrimonial home has been sold and both parents have relocated, sometimes out of the school catchment area or busing routes. In this case, the courts would look at what would work best for the children – if one parent has the children residing with them most of the time, it makes sense that all of the children go to the school which is close to that parent's home, and that all of the children go to the same school, unless there is French immersion or another reason.

Bottom line, you will want to consult with a family lawyer to get this matter settled before the beginning of September.

Your friends at Shank Law.



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