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## **Where Should My Children Go to School?**

Now summer is coming to an end and many families are getting ready to send the children back to school. For most families the decision about where to send a child to school is fairly simple decision. There are the normal questions of public school as opposed to private school and parents are free to choose the school that fits the needs of the child and family. Unfortunately in cases where parents are divorced, the decision is not always so easy.

Generally the child will go to the school which is closest to the home of the parent who has primary custody of the children. However there may be instances where this is not practical or in the best interests of the child. For example if the non-custodial parent lives closer to the school where the children attended prior to the divorce or separation, the Court may deem that it is in the best interests of the children to remain at their previous school.

In joint custody matters, there is an additional complication. Where the parents each have equal custody it can be difficult for a Court to determine which school the child should attend. If the children were in school at the time of the divorce and there is a possibility that the child can remain in their previous school, a court will generally order that the Status Quo be maintained. In cases where both parents have moved away from the children's school or where the child is going to start kindergarten, the court will consider several factors prior to making the determination as to where the child will go. One factor will be the location of the school in proximity to each of the parent's places of employment. If one parent is required to drive in the opposite direction of their work to get the child to one school and the other parent would be passing the proposed school on their way to work, the court will take that into consideration. Another factor that is considered is the quality of education, after school care and extracurricular activities.

There may be circumstances where one parent moves too far from the other to make joint custody possible during the school year. In those cases, the Court may need to modify the custody orders so that one parent has primary custody of the children during the school year, with the other parent having additional time in the summer and holidays. My oldest daughter had a friend growing up that lived in New York with her mother during the school year and visited her father in California for all winter, spring, and summer breaks.

In some cases where the parents have a high conflict as to where the child will go to school, a court will appoint an evaluator or an attorney for the children to assist the parties in determining the best school to



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go to. The evaluator or minor's counsel will meet with the children, parents and will consider any evidence relative to the proposed schools.

Of course, the best way to determine where the children go to school is for the parents to work together to decide which school will meet the needs of the children.