

CHILD SUPPORT AND SCHOOL FEES – WHO PAYS?

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You're separated and are about to enrol your child in a private school or, your child is already enrolled but you have now separated, who pays? It's a common question and it's important to know the answer...

The process

The Department of Human Services, (formerly known as the Child Support Agency (CSA)) applies a formula assessment in calculating how much Child Support should be paid. The assessment is based on children attending a State school, not a private school.

The CSA formula:

The main variables for the formula include the:

- number of children
- taxable income of both parents
- number of nights the child spends with each parent.

A link to the online estimator is [here](#).

The formula does not reflect whether the parents pay disproportionate amounts for a child's private school fees or any other additional expenses they may incur, e.g. equipment costs for children with special needs.

How do school fees affect child support?

If parents have an agreed intention that their child should attend a private school, then the CSA will look at including a proportionate amount of the school fees in a "re-assessment".

If there is no agreement, a parent can seek to vary an assessment via the internal review processes available through the Agency or, in



The parent's intention is usually evidenced by the completion and signing of a school "enrolment form".

The situation becomes more complicated however if both parents have agreed that the payment of school fees was made for the purpose of child support. In that case, the payment can be credited as a third party payment.

Where the parent receiving child support does not agree that the payment of school fees was meant to be part of the child support assessment, the paying parent is still able to have some of the payment credited as child support. This is only where the paying parent pays 70% of their normal monthly child support payment on time and in that case a maximum of 30% of the monthly payment can be credited towards the school fees. These are often referred to as "non-agency" payments.

It should be noted that only paying parents that have 14% ("regular care) or less, of the "time spent" with the children are able to claim a "non-agency payment".

If a paying parent is unable to apply for the "non-agency payment" because of a level of care higher than "regular care" of a child, that parent can apply to the CSA for a "change of assessment", this procedure also applies if the cost of maintaining the child is significantly affected by the higher costs of education in the way that both of the parents intended.

In deciding whether the parents were agreed that the child should be educated privately, the CSA will consider the type of education intended by both parents for the child, rather than any particular school intended by the parents.

The CSA will also consider the financial situation of both parents. The fact that a payer can afford to pay the fees is not in itself a reason for imposing a liability to contribute to private school fees.

Each matter is unique and needs to be addressed according to your personal circumstances and needs. To speak with one of our experienced family lawyers, please [contact our Brisbane office](#) today.