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Public vs. Private School in Divorce: Who Decides and Who Pays?

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When parents divorce, disagreements about whether a child should attend public or private school are common. The answers to “who decides?” and “who pays?” depend largely on custody and the family’s financial circumstances.

Who Decides?

School choice is part of legal custody, which governs major decisions about things like a child’s education, medical care, and religion.

If parents share joint legal custody, neither parent can unilaterally choose a private school or switch schools without the other’s agreement. If they cannot agree, a judge may decide based on the child’s best interest. Maryland courts apply guidance from cases such as *Taylor v. Taylor* and *Montgomery County Dept. of Social Services v. Sanders*, focusing on stability, the child’s academic history, parental involvement, and practical considerations like distance and scheduling.

If one parent has sole legal custody, that parent typically has authority to decide the school, although the other parent may challenge the decision if it is harmful or unreasonable.

Who Pays for Private School?

Even if a private school is chosen, tuition is not automatically required. Courts examine factors like whether the child historically attended private school, whether the family can afford the expense, and whether private education is consistent with the child’s best interest.

Private school tuition is often treated as an additional child-related expense and may result in child support adjustment.

Courts are more likely to require payment if the child attended private school during the marriage and the parents have the financial ability to continue it.

The Bottom Line

Educational decisions in divorce should not be about what one parent prefers; instead, they should be about what serves the child’s best interests while remaining financially realistic.

If you are facing a dispute about school choice, early legal guidance can help you protect both your parental rights and your financial stability.