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The best-interests analysis in education disputes

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Law360 Canada (September 22, 2026, 2:52 PM EDT) -- Where a child goes to school is an all-or-nothing decision. Because there is no middle ground, any misalignment between separated parents can easily become a dispute that requires judicial resolution. For the family lawyers who represent these parents, their dispute can carry added importance: the issue often arises on an urgent or interim basis shortly before the beginning of the school year, when the parties cannot wait for trial.

Recent Ontario decisions confirm that courts begin their assessment with a fairly settled analytical structure, even as the fact patterns become more varied. Catchment-area disputes remain common, but courts have also had to consider unique scenarios involving gifted children, autism-spectrum diagnoses, French immersion, religious schooling and homeschooling, among others.

Established starting point

In Ontario, the courts' substantive analysis is directed at the child's best interests, rather than the competing interests or convenience of the parents.



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The reasons in *Thomas v. Osika*, 2018 ONSC 2712 set out the specific factors to be considered by a court where a parent is proposing to disrupt a child's existing school placement. They include: the child's individual needs and aptitudes; the parents' educational plans and ability to support them; the child's cultural and linguistic heritage; continuity and stability; the resources offered by each school; and practical considerations affecting the child.

There is a general presumption in favour of the status quo (at para. 23), and there must be "good reason" to disrupt the child's life. To support any switch to a different school, the court must see convincing evidence that the change serves the child's best interests (at para. 37).

Best interests and the court's own powers

It is important to note that in school placement disputes, the best-interests analysis can constrain the courts' remedies for a parent's broader non-compliance. In *Sadiq v. Musa*, 2026 ONSC 851, the court found that the mother had breached the final order by enrolling the child at a particular public school, despite having agreed with the father to have the child attend a different one. The mother did so under the rubric of having been granted final decision-making authority, but had failed to consult the father or engage in the prefatory mediation that the order required.

Based on ordinary enforcement principles, the mother's breach might have justified the court ordering the child restored to the previously agreed school; however, it declined to do so. A further transfer would have disrupted the child's schooling and increased his daily travel time.

Instead, the court addressed the mother's non-compliance by suspending her final educational decision-making authority, temporarily making educational decision-making joint, and requiring the parties to mediate future disagreements. The remedy therefore responded to the breach by the mother without imposing additional disruption on the child.

Taking the long view

In connection with a proposed change to school placement, the need for a best-interests analysis can arise at any time in the parents' litigation. Fortunately, courts are attuned to the bigger picture.

In *A.C. v. J.C.*, 2026 ONSC 4560, the requested order was a temporary variation of a prior one, and did not disturb the parents' broader parenting arrangements. The court held the usual "material change" threshold for temporary orders did not apply, and that the moving parent merely needed to establish a "compelling reason" to revisit the parents' consent to school-placement arrangements.

In *R.J.P. v. L.A.K*, 2025 ONSC 3828, the court granted the father's mid-trial request to preserve the status quo on an interim basis and keep the children at their existing private Montessori school. This was even though the mother's school choice was in the district of both parents' residences, and even though there were real, but largely untested, concerns about the current school. The court acknowledged that the additional evidence led at trial — about such matters as tuition costs and alleged bullying — might lead to a different result on a final basis.

Stability is the default mode

As usual, the best-interests analysis is nuanced, but the child's stability is one of the key considerations. This is often more pronounced when a parent unilaterally purports to move to a new area, effectively disrupting the status quo.

In *Peristy v. Bishop*, 2026 ONSC 967, the mother unilaterally arranged a mid-year school transfer for the 6-year-old child, over the objections of the father. The switch was from a Hamilton school to one in Burlington, where the mother had moved in with the maternal grandparents. Although the court accepted the mother's evidence that the daily drive from Burlington to Hamilton involved some extra travel time, it treated this as a minor detriment, far outweighed by the harm of pulling the child from her customary school mid-year.

The court ordered the child returned to her original school immediately; it also cautioned against the "reckless creation of a new status quo," noting that in a "contest between 'best interests of the child' and 'fait accompli' — best interests will always prevail" (at paras. 14, citing *Cosentino v. Cosentino*, 2016 ONSC 5621).

Best interests and the child's individual needs

It is trite that the best-interests analysis is highly individualized to the child. Some recent cases illuminate the contours of the court's examination, which is always undertaken against the background of both the circumstances and the child's particular personal and scholastic needs. For example, when assessing best interests, the courts have considered the following:

- **The availability of French immersion**. In *Erb v. Fabbro*, 2025 ONCJ 409, the court ordered a child entering junior kindergarten to attend French immersion, noting the educational and

future advantages of bilingualism. Although the non-French school could also meet the child's needs, the court found no demonstrated disadvantage to beginning in immersion. It also accepted that a later transfer into an English program would be easier than entering immersion at a later stage.

- **Giftedness or religious education needs**. In *Levin v. Dick*, 2026 ONSC 4682, the court moved a gifted 9-year-old from an Orthodox Hebrew program to a more pluralistic Jewish and Hebrew one, over the father's objection. The existing program no longer challenged the child, and she had become resistant to returning.
- **Support for autism or other special needs.** In *A.C. v. J.C*., the child had an autism-spectrum diagnosis, an Individual Education Plan (IEP), occupational therapy services outside school hours, as well as agency supports. The father did not provide sufficient evidence that the proposed school could ensure timely continuity of those resources.
- **Homeschooling vs. public school.** In *Maharajh v. Mathura*, 2026 ONSC 3284, the court ordered that three homeschooled children should begin attending public school. It found that public school would allow for formal assessments, provide additional supports (including specialized supports for one child with Down syndrome) and broaden the children's social relationships.

Building the evidentiary record

Many school-placement disputes arise on temporary motions, where the record may be incomplete or untested. The recent decisions nevertheless identify several recurring evidentiary focal points:

- **Confirming the catchment area**. In both *A.C. v. J.C.* and *Elmasry v. Alli,* 2025 ONSC 3483, the disputes were exacerbated by the parents' own misapprehensions about the correct catchment area. Lawyers should obtain documentary confirmation from the school or board, rather than rely on a parent's understanding.
- **Ensuring support is continued**. Where a child has an IEP, therapeutic supports or an identified exceptionality, the evidence should address the nature of the child's current supports and determine whether comparable services will be available at the proposed school. In *A.C. v. J.C*., the court made an interim order that the child remain at her current school for another year, noting that "but for the lack of evidence regarding educational supports for [her] needs and the availability of before and after school care … I would have come to a different conclusion."
- **The child's own views**. Third-party or professional evidence of a child's stated preference will be given more weight than a parent's account of it. In *Levin v. Dick*, the child had communicated her concerns in therapy, and the court expressly considered them as part of its assessment of the proposed program's merits and shortcomings.
- **Before- and after-school logistics**. Provide objective evidence concerning before- and after-school care, waitlists, transportation and commute times. These considerations recur in *A.C. v. J.C., Peristy v. Bishop* and *Sadiq v. Musa*, although their weight depends on the effect on the particular child.

The bottom line

For family lawyers advising clients at the start of the 2026 school year, the cases point to one key theme: the question is never which school is better in the abstract; it is which school better serves the needs and circumstances of the particular child.

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