

# Mediating Agreement on Parenting Issues

by

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- A. Comprehensive List of Parenting Issues
- B. Custody Language in Mediated Agreements
  - C. Exchanging the Children
  - D. Children's Rights in Divorce
- E. What Parents Can Do to Help Children With Divorce
  - F. Developmentally Appropriate Parenting
- G. Erikson's Psychosocial Developmental Stages
- H. Time-Sharing Guidelines of Robert E. Adler, PhD
  - I. Talking to Children in Mediation

When clients have children, the parenting arrangements may be the most important areas of both the mediation and the written agreement. Parenting arrangements must withstand the test of time. Not only will this couple be parents together forever, they can also look forward to being grandparents together. The divorce is not the end of their relationship. It is time for the reshaping of their relationship so they can effectively coparent their children, and attend their children's birthdays, graduations, weddings and other family celebrations together.

Parenting arrangements affect the lives of individuals who are not involved in the mediation, and who most often, are too small to identify their needs and feelings.

## **Comprehensive List of Parenting Issues**

### **A. Legal Custody Label, Primary Residence**

### **B. Time-Sharing Plan**

1. Overall Intentions and Guidelines
2. Weekly Schedule
3. Summer Vacation
4. Halloween (Trick or Treating; Costume)
5. Veteran's Day
6. Thanksgiving Day/Weekend
7. Hanukkah
8. Winter Break
  - a. Christmas Eve/Day
  - b. New Year's Eve/Day
9. Martin Luther King Day
10. President's Day
11. Spring Break
12. Easter
13. Mother's Day/Father's Day
14. Memorial Day/Weekend
15. Independence Day
16. Labor Day/Weekend
17. Children's Birthdays (Day; Party)
18. Parent's Birthdays
19. Other Three-Day Weekends Resulting from School/Legal Holidays
20. Guidelines for Flexible Time
  - a. initiated by a parent
  - b. initiated by a child
21. Holiday Schedule Supersede Weekend Schedule

### **C. Transportation & Responsibility for Meals**

1. Sharing transportation within \_\_\_ miles w/o renegotiating

2. For sharing time with parents
3. For medical appointments, extracurriculars, school attendance
4. Who has responsibility for feeding children when exchanges occur at meal times

**D. Prompt Exercise of Time with Child**

1. Arrangements when a parent is ill
2. Arrangements when a child is ill
3. Calling ahead if vary exchange by more than \_\_\_ minutes

**E. Parental Decision Making**

1. Making an effort to work together
2. Major life decisions
  - a. Children's Residence
  - b. Education
  - c. Health care providers and procedures
  - d. Spiritual training
  - e. Upbringing
  - i. Extracurriculars that are dangerous
  - ii. Extracurriculars that need both parents
  - iii. Haircuts, perms, coloring, tattoos, piercing
3. Day-to-day decisions
4. Address for school records
5. Address for medical records
6. Future conflict resolution process (See "W")

**F. Parental Communications**

1. As needed? Scheduled? When? How?
2. Not discussing difficult issues in front of children
3. Discussion ground rules to avoid arguments
4. Winning cooperation

**G. Communicating with a Child**

1. At parent's initiative:
  - a. Unlimited/Limited
  - b. Reasonable hours
2. At child's initiative:
  - a. Unlimited/Limited
  - b. Long-distance charges

**H. Fostering Affection and Respect**

1. Access to other parent, extended family members
2. Not estranging children from other parent
3. Refraining from arguing, making derogatory comments about other parent
4. Not discussing the financial settlement of the divorce with the children
5. Not blaming the other parent for the divorce to the children

**I. Substitute Child Care**

1. Other parent to have first option if child care needed in excess of \_\_\_ hours
2. Responding to request within \_\_\_ hours
3. If parent not available then who:
  - a. Mutually-acceptable child care providers or

- b. Alternate child care at parent's discretion
- 4. Financial responsibility for child care

#### **J. Health and Well Being**

- 1. Stability and continuity
  - a. Same routines (bed and meal times)
  - b. Same expectations (chores, homework, discipline, diet, hygiene)
  - c. Cooperative and unified parenting response
- 2. Discipline
- 3. Notification of intent to take child out of state
- 4. Not using a child to relay a message to other parent
- 5. Not asking child about personal life of other parent
- 6. Not asking child to keep a secret from the other parent
- 7. Not using a child as a confidante or depending on child for emotional support
- 8. Seeking input from children while ensuring children understand it is parent's responsibility to determine what is best for children
- 9. Responsibility for annual medical/dental examinations
- 10. Safety devices: driving, bicycling, boating
- 11. Violence
- 12. R-rated movies
- 13. Alcohol and drug use when child is present
- 14. Second-hand smoke
- 15. Guns and other arms
- 16. Changing the children's names
- 17. Calling another adult "Mom" or "Dad"
- 18. Child's sleeping arrangements
- 19. Introducing the child to a new partner

#### **K. Children's Possessions**

- 1. Books, toys, clothes, pets
- 2. Exchanged between households? Redistribute as needed?
- 3. Kept in separate households?
- 4. Packing and returning children's possessions
- 5. Needs for special clothing, equipment for particular activity.

#### **L. Access to Information from Schools and Care Providers**

#### **M. Financial Responsibility for Child's Expenses**

- 1. Child Support
- 2. Housing, food, clothing, utilities
- 3. Work-related child care
- 4. Extraordinary expenses: sports, equipment, lessons, major clothing purchases, school supplies, trips
- 5. Review (if income, time, expenses change)

#### **N. Educational Expenses** (college, private school)

#### **O. Life Insurance** (to help raise children if parent becomes deceased)

- 1. Amount
- 2. Beneficiary

#### **P. Agreement to Make a Will**

- 1. Percent of Net Estate to the Children?

2. Legal Guardians

### **Q. Health Insurance**

### **R. Uninsured Health Care Expenses**

### **S. Gifts to Children**

### **T. Dependent Deductions and Head of Household Filing**

### **U. Future Conflict Resolution Process**

1. Direct negotiation
2. Gathering information; seeking second opinions
3. Mediation
4. Child development specialist as (binding or nonbinding) arbitrator

### **V. Future Review of Parenting Arrangements**

1. How often? Annually? Biannually?
2. Remarriage or Cohabitation of Either Parent
3. Change in Employment Schedule
4. Accident/Disability to a Parent
5. Family Emergency
6. Child's Adjustment/Developmental Needs
7. Child's Request
8. Upon recommendation of child's teacher, counselor
9. Moving further than \_\_\_ miles from other parent

### **Custody Language in Mediated Agreements**

Parenting arrangements in mediation will include facilitating agreement on the legal terminology that best describes the family's situation and desires.

In the Oregon and most other states, there are two primary aspects to custody:

1. **Physical Custody** refers to how parents will share the children's time between them during the week, and for all holiday and vacation periods.

2. **Legal Custody** refers to:

a. how parents will make the major life decisions affecting their children regarding residence, education, religion, medical/dental/vision/mental health/orthodontia (etc.) care, and the miscellaneous aspects of parenting which include extracurricular activities (sports, music, scouts) and also the children's manner of dress, haircuts, and so on; and

b. how parents will share responsibility for the children (getting them to appointments, paying for property damage caused by the children, etc.).

Legal custody language usually includes the additional language specifying who will make the major life decisions and have the responsibility for the children. This may be handled in several ways:

1. Sole Legal Custody is when one parent makes the major life decisions affecting the children.

2. Joint Legal Custody is when both parents, together, make the major life decisions affecting the children.

3. Split Legal Custody is when each parent has sole legal custody of at least one of the children. Obviously this can only happen in families where there is more than one child.

4. It is also possible to describe legal custody in terms of a process parents will utilize to make decisions. Some examples are: parents may discuss the issue together, consult with an outside expert if they still cannot agree, enter into mediation or arbitration, alternate having the final decision when they cannot agree, or one parent can have the final decision after a good-faith attempt at reaching agreement with the other parent.

5. Major life decisions affecting the children can also be shared by area. For example, perhaps the parents will make the major life decisions regarding education, religion, and medical care together, but only one of them shall decide where the child shall live.

This last concept, where the child shall live, brings us to a discussion of Primary Residence which refers to the child's legal address to which school and medical records are sent. Primary Residence also refers to the parent with whom the child primarily lives, and, perhaps, with whom the child may move if that parent is relocated for good cause, and the move is in the child's best interests. The fear of one parent moving with the child, is one of the biggest fears parents bring to mediation. The discussion of how to handle future moves is an important one, and one which is best left until the possibility is a reality and all the details are known. Parents in mediation often agree to give each other 60 days' advance notice of any move from the vicinity so they have time to renegotiate their parenting arrangements to consider the best interests of their child.

### **Exchanging the Children**

When children are sharing time with their parents in two different households, an issue which needs to be addressed is how to exchange the children. Sometimes parents share this responsibility; sometimes one parent provides all of this transportation. What follows are some possibilities and some benefits and drawbacks of each:

1. The parent who has the children brings them to the other parent at the beginning of the children's time with that parent. This results in an equitable sharing of the transportation responsibility. If a parent can do this cheerfully, the inherent message to the children is "It's okay with me for you to have time with the other parent." This solution gives the current parent the responsibility to ensure the children are dressed, have their needed belongings together, and are on time. The caution involved in this option is to be considerate of the other parent and the children and be sure you are at home when the children are scheduled to arrive. The children can hop out of the car and go to the parent's home, or be escorted to the door by the transporting parent. Coming in should be by invitation of the parent only.

2. The parent who is scheduled to have the children picks them up from the other parent's. This also should result in an equitable sharing of the transportation responsibility. When it is comfortable for the parents, this option may allow a child to show a parent her room, a recent project, etc. This also allows the "receiving" parent to borrow special equipment like bicycles and skis when they have a special activity planned. Sometimes children have difficulty with transitions and may resist being "taken away" by the other parent. Be sure the children are ready to go when the other parent arrives. The parent can pull into the driveway and tap their horn, or come to the door and ring the bell. Coming in should be by invitation of the parent only.

3. Parents meet half-way between their households to exchange the children. This results in an equitable sharing of the transportation. Where parental safety or comfort is a concern, this option allows parents to meet in a neutral or public place. Possible meeting places are a mall, a restaurant, the library, or even the police station. The possible drawback here again, is to be sure to be on time and have a clear location identified. Waiting in a public place with the children in the car is stressful. There may also be no way to reach the other parent if you are delayed.

4. Parents exchange the children at school or child care. This may be attractive to parents who are very uncomfortable with each other because they rarely have to see each other. Also the children do not have to witness their parents' discomfort or arguments. The drawback is tracking the children's belongings. Parents will need to create clarity regarding the time their parental responsibilities are exchanged in case a child becomes ill in school and needs to go home. Again, being on time is very important. A child cannot wait at the curb outside school waiting for you.

5. Parents exchange the children at a friend or relative's house at different times. This option also eliminates the parents from having to interact in person and saves the children from witnessing the parental discomfort. It also may allow the children to have some distracting playtime during exchanges. It eliminates the problem of a child waiting on the curb and provides a place for a parent to call if they are delayed. A drawback is tracking the children's belongings.

6. One parent provides all the children's transportation for time sharing. Sometimes this is seen as sharing the children's transportation needs equitably because the other parent is shuttling the children to school, extracurriculars and medical/dental appointments. Sometimes only one parent has a car.

7. A representative of one or the other of the parents provides the transportation for exchanging the children. This neutral option may allow for parental comfort and safety. Let the other parent know who is driving the children. Be sure this person is known to the children. Be clear about what that person's role is, that is, they are just chauffeuring, they do not carry messages between parents, or interact with either parent in a hostile manner.

### **Children's Rights in Divorce**

1. Each child has the right to develop and maintain an independent relationship with each parent.

2. Each child has the right to be free of the conflict between the parents.

3. Each child has the right to be free from having to take over the parental responsibility for making custody and visitation decisions.

4. Each child has the right to be free from having to take sides with, defend, or downgrade either parent.

5. Each child has the right to be guided, taught, supervised, disciplined, and nurtured by each parent, without interference from the other parent.

6. Each child has the right to be financially supported by both parents, regardless of how much time each parent spends with the child.

7. Each child has the right to know both parents, and to spend time with both parents on a regular basis, for holidays, and for vacation periods, regardless of whether or not financial support is given.

8. Each child has the right to a personal sleeping area and space for possessions in each parent's home.

9. Each child has the right to be physically safe and adequately supervised when in the care of each parent.

10. Each child has the right to be protected from people under the influence of alcohol or illegal drugs.

11. Each child has the right to be protected with a car seat or seat belt (as appropriate to the child's age) whenever a passenger in an automobile.

12. Each child has the right to a proper fitting protective helmet whenever bicycling or motorcycling.

13. Each child has the right to a stable, consistent, and responsible child care arrangement when not supervised by the parents.

14. Each child has the right to develop and maintain meaningful relationships with other significant adults, (i.e., grandparents, stepparents, and other relatives) as long as these relationships do not interfere with or replace the child's primary relationship with the child's parents.

15. Each child has the right to expect that both parents will follow through with the child's residential plan, honoring

specific commitments for scheduled time with the child.

16. Each child has the right to both parents being informed about medical, dental, educational, extracurricular, and legal matters concerning the child, unless such disclosure would prove harmful to the child.

17. Each child with special needs (developmental, mental, emotional, and physical) has the right to appropriate consideration and adaptation in any child care plan.

18. Each child has the right to participate in age-appropriate activities so long as these activities do not significantly impair the relationship between the child and either parent.

*\*Adapted from the Family Center of the Conciliation Court of Pima County, Arizona (1991).*

### **What Parents Can Do to Help Children with Divorce**

1. Parents do not have to be friends after divorce, being considerate and business like is more realistic. Treat the other parent as you would a business partner. Keep in mind the "mission statement" of this new business is to raise the best children possible. Consider how you would behave with a business associate you were trying to close an important deal with (you probably wouldn't resort to name calling).

2. Be on time. Being late is inconsiderate of the other parent and the child. Being late can interfere with the other parent's plans and hurt the feelings of the child who is waiting for you. It can also disrupt the child's routine.

3. Stay out of conflict with the other parent. When discussing a challenging parenting issue, take a time out, take a concern "under advisement," cool down, do some processing, and then contact the other parent with your thoughts. There are two sides to effective parenting communication after divorce: (1) learn to raise issues respectfully and without blaming and (2) learn to respond to a parent's concerns without defensiveness and argument. You will need to learn to attack problems together, not attack each other because there is a problem. Former partners know how to push one another's buttons and this can sabotage a business- like relationship. The following is a possible way to address concerns respectfully:

a. Begin by asking if this is an acceptable time to talk. Make sure you can have the other parent's (and give your own) undivided attention for a sufficient amount of time to have a productive discussion.

b. Avoid making statements which can be interpreted as blaming or attacking the other parent. Make a statement to encourage cooperative problem solving such as: "We have a problem; I need your help."

c. Calmly and objectively describe the situation and how it is a problem for you or the child.

d. Avoid interrupting. Sometimes the need to interrupt can be helped by taking notes while the other parent is talking. You want to learn to respond, not react.

e. Before responding with your perspective, ask questions of the other parent and listen to their answers. You want to really understand the problem from the other parent's perspective. After both parents have shared perspectives, it's much easier to find solutions that will work for both of you and the child.

f. Remember you are trying to win cooperation from the other parent to solve the problem in your child's best interests. If you blame and attack, you will alienate and invite counterattack.

g. Also remember you are having a respectful conversation because you love your children and value a cooperative coparenting relationship.

h. If you get uncomfortable, feel defensive, or find yourself wanting to blame or attack the other

parent, disengage before an argument begins. Take the matter "under advisement." Make a statement such as, "I need to think about this. I'll call you back tomorrow."

i. When calm, continue discussions and work together to find a solution acceptable to both of you.

j. Create an implementation plan for addressing the problem: who is going to do what by when.

k. When appropriate, take turns putting your plan/agreement in writing and share it with the other parent.

4. Never allocate the other parent's resources (emotional, physical, financial) without their permission. This means not signing a child up for an extracurricular activity (like soccer or a paper route) when it is the other parent's time with the child without talking it over with the other parent first. When a child is invited to a birthday party, and he or she is supposed to be with the other parent that day, have the child call the other parent and make the arrangements with that parent. It is so easy to get involved in these situations, try to remember this is their business, not yours.

5. Avoid putdowns and talking negatively about the other parent when the children are present. Children love both of their parents. Very often, children need "permission" from a parent to have a good relationship with the other parent. Encourage the children to have contact with the other parent. If a child complains about the other parent or the other parent's household, encourage them to discuss it with the other parent and let them know you are confident in their ability to work it out with the other parent. "Mom really loves you. I think you need to let her know this is bothering you. I'm confident that you two can work this out together." When parents speak negatively about a parent to a child or act disrespectfully toward that parent, the child will pick up on that behavior and attitude, and act it out with the other parent (and you). Help your child have love and respect for both parents.

6. Help a child understand that Mommy and Daddy are getting a divorce, not Daddy (or Mommy) and the child. Parenthood lasts a lifetime. Avoid language like "She left us."

7. Act responsibly so children are secure in knowing a responsible adult is taking care of them. For example, responsible adults with a business-like relationship do not engage in name-calling, yelling, and other emotional outbursts. Another thing to remember is not to give children the responsibilities which belong to a parent. An example of this is leaving the determination of the time sharing schedule to a child. This puts the child in an awkward position. For one thing, it is too much responsibility for a child. And, a child should never be asked to choose between his or her parents. It is far better to seek a child's input and for the parents to then determine the time-sharing schedule. If when seeking input from a child, the child tells one parent one thing and the other another thing, this is a pretty clear indication that the child is experiencing a loyalty bind. This child may need to express him/herself to a neutral, supportive person like a counselor or teacher. Sometimes a child can talk with both parents together about his or her time-sharing preferences. This is easier to do with an older child. What needs to be made clear to the child is (1) we would like your input, (2) this is our decision, (3) please don't think you need to take sides or would hurt one of us by your thoughts or preferences, (4) it would hurt us more to think you felt you needed to protect us from your wishes.

8. Do not ask a child to relay a message to the other parent. This puts the child in the middle of he parents' relationship. It also places more responsibility on a child than is appropriate. Suppose the child forgets, or loses the letter? Suppose the other parent gets angry when they get the message? Who then suffers?

9. Do not ask a child what is going on in the other parent's life or household. This is asking a child to violate a trust. Don't grill children about how they spent their time when they come back from the other parent's home. The children can end up feeling like it wasn't okay that they had a good time. Remember, except in abusive situations, you cannot control what the other parent does with the child when they are having their time together. If you have concerns, express them to the other parent. If the child has

concerns, encourage him or her to bring them up with the other parent. It might be tempting to agree with your child if s/he complains about the other parent, but you should tell the child to take his or her complaint to the other parent. You need to encourage the development of a healthy relationship with your child and the other parent.

10. If your children tell you the other parent lets them stay up very late, eat donuts for dinner, and therefore you should too, tell your children that they will follow your rules when with you and that you cannot tell the other parent what to do in their house.

11. Do not use a child as a confidante or depend on a child for emotional support. This is more responsibility than a child should have and also puts the child into a loyalty bind.

12. Regarding secrets--do not ask a child to keep a secret from the other parent. This also puts the child into a loyalty bind. Do not agree with your child to keep a secret from the other parent. This undermines that parent's parenting role and cuts the parent out of significant events in the child's life.

13. Do not discuss the financial or emotional details of the divorce (or problems with child support) with the children. If they ask questions, ask them what their concerns are and then tell them that Mom and Dad will discuss them. Children need to know that their parents are working responsibly to resolve all the issues, and that they don't need to worry.

14. Try to create as much stability and continuity between households as possible. Following the same basic routines around bedtimes, mealtimes, and having similar expectations around discipline, training, homework, chores, hygiene, and diet will help children transition between households more easily.

15. Give your children your time and attention. It is normal to feel like you have to entertain your child when you have time with them after divorce, but you don't have to disrupt your life or spend a lot of money on them to make up for lost time. Be yourself and just have a good time together whether you're doing laundry or playing checkers.

16. When you cannot see your child regularly, telephone, write, e-mail, send postcards and pictures, make audiotapes of you reading their favorite stories, send them a video cassette of where you live, work, your pets, friends, etc. Arrange to read the same book, watch the same movie or tv show and then talk about it together. When the other parent is far away, videotape a child's softball game and send it to the other parent. Send the other parent copies of school projects, artwork, and funny things they said that week.

17. Think of the other parent as an asset for your child and yourself. Call the other parent when you need child care, a break, or when you think the child needs the other parent.

18. Avoid trigger words like "I let you have the kids..." "My son...." Think and speak in terms of "sharing our kids."

19. Understand that sometimes a child will share exaggerated or fabricated information with the parent they are currently with. This is a natural event and usually an effort to please that parent. The child may be motivated out of loyalty, concern for the parent's hurt feelings, wanting to gain favor with the parent, wanting to evoke a "mama-bear/papa-bear" response, and so on. The child is not lying but rather is attempting to survive, feel secure, diminish fears of abandonment, and create a positive relationship with the parent with whom s/he is sharing time.

20. Post a timesharing schedule where the children can see it. Even children as young as 12 months can follow along with a color-coded timesharing schedule where days with one parent are red, days with the other parent are blue, for example. They can even help "check off" the days as they go by and thereby know where they are in time and when they will see the other parent again.

21. Before becoming distressed at your child's seeming reluctance to transition to the other parent, take note as to whether the child is reluctant because she or he is seeking to avoid being with the other parent, wanting to have some control, demonstrating loyalty to you, or, as may often be the case, is the child having a fun time and just isn't ready to stop doing what they're doing and go.

22. Divorced parents can stay emotionally hooked to one another and easily fall into fighting. Because kids tend to want parents to be together, they may see their parents' fighting as a way for their parents to stay together. They may even do things to promote the fighting. This is especially true in families where there was fighting followed by "kiss and make-up" in the marriage.

23. Divorced spouses do not permit themselves to get through the divorce transition when they are focused on the other parent and refuse to let go. Focus on your future.

24. Considering that children have fantasies of their parents' reconciliation for many years after the divorce, introduce the children to new partners very slowly. It is not usually necessary for the children to meet a casual date or develop a relationship with a series of new partners. Children may experience separation loss and be confused about what "family" and "marriage" mean. Consider only introducing your children to a new partner after some form of commitment has been made between you and that new partner. Going slowly will also help the chances of the children building a positive relationship with that person. Children often have difficulty if they perceive themselves to be in competition with that new partner for your attention. During the introductory phases of helping the children adjust to your new relationship, have some one-on-one time with each of your children in addition to time you spend as a new family. Talk with your children about any concerns they may have. A key part of the children's acceptance of your new partner will be the reaction of the other parent. Find a time to discuss these issues with the other parent to avoid problems.

25. **Create developmentally appropriate time sharing plans.** Consider that children's desires and needs change over time. What a six month old and a ten year old can do and what they need are very different. In general, the following are important considerations in developing an age-appropriate time sharing plan:

**a. Children Under Three:**

i. Children under three are learning to trust others: They express their needs and someone comes to take care of their need. That person is a "primary caregiver" in the child's life. The child knows s/he can depend on that person to meet the child's needs. The child is learning if other people are trustworthy.

ii. When children are separated for long periods of time from someone they know to be dependable, and placed with someone who they do not yet know to be as dependable, they experience anxiety and insecurity. They learn not to trust their needs will be met.

iii. This concept is called attachment. It refers to the bond a child develops with his/her primary caregiver(s). Yes, a child can have more than one primary caregiver. It can be anyone who the child has learned will consistently and dependably respond to a cry for help. In terms of emotional development, it is critical that children form secure attachments with their primary caregivers.

iv. The attachment bonds formed in childhood have been shown to have a very strong impact on how we relate to others as adults especially in intimate relationships.

v. Children under three are developing their attachment bonds and need frequent contact with both parents and no prolonged separation from their primary caregiver(s).

vi. A parent can become a primary caregiver to a child with frequent contact, changing diapers, feeding, comforting, bathing, etc. It's not enough to just have time with the child; it must be

nurturing, caretaking time.

**b. Children 3-5:**

- i. Once children are passed their "attachment phase," more flexibility and longer blocks of time with each parent are possible.
- ii. Children under five still need frequent contact with both parents because of their undeveloped sense of time.
- iii. A posted, color-coded time-sharing calendar in both parents' households can be helpful to a child in this age group.

**c. Children 6-12 are usually the most flexible.**

- i. If the schedule is workable for the parents, it will most likely be workable for the child. Children in this age group are somewhat like barometers of their parents' adjustment.
- ii. Regardless of a child's age, a child should have a sense of being listened to in expressing their preferences for having time with both parents.

**d. Children 13 and up:**

- i. Children in this age group usually prefer fewer transitions and longer blocks of time with parents,
- ii. Or they may prefer to have one primary home and "make dates" to have time with the other parent. Don't let this hurt your feelings. As children grow older, their relationships with their friends are more important to them than their parents. Adolescents are creating an identity that is separate from their parents. They need to "roost" (which means "hang out in their space"). They also need to be easily available to their friends by phone.

**Developmentally Appropriate Parenting**

Children need security, continuity, and stability. This is even more important during divorce when children wonder who will take care of them and if they are also divorceable. When parents are in conflict about time-sharing plans, it may help to distinguish between what is fair for them, and what is best for their children. Most parents will say that they want what is best for their children. Unfortunately, for most of us, it is very difficult to distinguish what is best for me from what is best for my child. Most parents take comfort in the role of the "good" parent. As any parent who got up in the night to change messy diapers knows, a good parent makes personal sacrifices and feels good about him or herself in the morning, even when feeling tired and bleary eyed. A "good" parent makes sacrifices. To reach agreement on parenting issues, it is essential to move off your self-interest (what's fair to you) to a place where your goal is to achieve what is in your children's best interests. How does one do this? It is usually helpful for parents to understand what their children are experiencing emotionally and developmentally. Parents can usually understand that children's needs change over time. With some amount of information about what components go into a developmentally appropriate parenting plan, the parent who initially wanted a six-month-old child six consecutive weeks in the summer can see that six consecutive weeks in the summer may be a better plan for a 10-year-old child.

Parents needing help identifying the best interests of their children and reframing their relationship into a parenting partnership may need information to read as well as referrals to child development specialists, parent education centers, and family therapists. What follows is some helpful information for you about the components of a developmentally appropriate parenting plan.

The idea that children pass through different developmental stages as they mature was first introduced by Freud, later refined by Adler and Erikson into psychosocial developmental stages, and expanded by other developmental psychologists into our current understanding of human development.

Erikson's theory is that at each stage of our life, we face the task of establishing an equilibrium between ourselves and our social world. He describes development in terms of the entire life span, divided by specific crises or turning points in life. At these turning points, we have the potential to move forward, that is to achieve successful resolution of the developmental conflict, fixate (remain "stuck" in a stage) or regress because of the failure to successfully resolve the developmental conflict. Usually a child needs support and help mastering these conflicts. The help usually comes from an understanding parent who will not take an adolescent's struggle for differentiation and identity formation as a personal rejection. A child needs a parent who understands what the child is experiencing and can provide the child with the security of their unconditional love.

This next section looks at a child's need for security. Security, stability, and continuity used to refer to a geographical location: the child's home. The maxim was that a child whose parents were divorcing needed "one home." Current empirical research however questions if we have sacrificed a child's relational security for the sake of geography. Security, stability, and continuity may be better provided by the relationship the child has with each parent. In thinking about the developmental needs of children and the need for security and continuity, many contemporary psychologists refer to attachment theory. Attachment theory is a useful contemporary framework to describe the role that enduring affectional bonds have in shaping the life course. John Bowlby developed the theory of attachment to explain the behaviors that infants employ to maintain feelings of security through physical proximity with their primary caregivers. When the distance from the caregiver is too great, a child smiles, cries, follows, and does whatever he or she can until comfortable proximity with the caregiver is reestablished. Crucial to the development of the child's enduring beliefs about the self as worthy of care and support, and others as responsive and caring, is the responsiveness of caregivers to infants.

Attachment researchers hold that children also develop psychological representations of relationships, also known as "working models," through early experiences with their primary caregivers. These representations are stable over time and manifest in later relationships. Alfred Adler believed that during the first three to five years of life, influenced by the family constellation of siblings, values, and emotional atmosphere, and motivated by the desire to find his or her own unique place in the group, a child seeks to create a logical and coherent view of self, others, and the world. These early perceptions lead to the development of an internally consistent schema for viewing the self, others, and the world, which Adler termed the individual's style of life.

In later work, Mary Ainsworth and John Bowlby extended the theory of attachment to explain the development of emotional attachments after infancy. Bowlby was interested in the development of the attachment bond and whether attachment formed or not. Ainsworth was interested in the quality of the attachment formed. According to Ainsworth, the quality of an infant's attachment to his or her primary caretaker is dependent on the quality of the interactions the child and caretaker have experienced. The quality of those interactions results in the categorization of infants into one of three basic attachment styles: secure, insecure-ambivalent, insecure-avoidant. In the secure attachment style, the child has learned to depend on the responsiveness of the primary caretaker. "This is someone who I can count on to meet my needs. They will change my diaper, feed me when I am hungry, comfort me when I am cold, tired, or hurt." The insecure-ambivalent style develops in response to the caretaker's inconsistent or arbitrary responsiveness to the child. "This is someone who I can sometimes count on to meet my needs." The insecure-avoidant can be characterized as having relinquished trust in the responsiveness of the caretaker. "I cannot count on this person to take care of me."

In formulating developmentally appropriate parenting plans in a child's best interests, it is important to consider the child's existing attachment bonds and the age of the child. The attachment bond is a developmental task that begins in infancy and continues into a child's third year. A healthy parenting plan

should balance between providing the child with his or her secure base (primary caregiver), and the opportunity to expand this secure base to both parents if only one parent has fulfilled this role for the child. A secure attachment bond is created by frequent caretaking contact. Caretaking contact means a parent has time with a child, changes diapers, feeds, clothes, bathes, plays, and holds a child. If only one parent has fulfilled this role for the child, the caretaking contact initially should occur in reasonable proximity to the primary caretaker, or for very short periods of time away from that primary caretaker. Abruptly removing the child from his or her primary caretaker for long periods of time may be a traumatic separation for the child who would wonder "Who will take care of me?" without knowing that the other parent can fulfill that role. Time and experience will help the child feel secure with both parents.

In summary, in younger children, security is provided by their relationship with their parents. Adolescents are learning to develop security in themselves and have a greater need for their peers, their "space," and an opportunity to define themselves as someone other than or different from their parents.

### **Divorcing Parties Have an Attachment Style**

Beyond helping to identify what is best for children in terms of time-sharing plans, attachment theory can help understand different clients' reactions to divorce. Many attachment researchers have found that the attachment system developed in childhood has a major influence on adult relationships and social competencies and may be activated by any close relationship which has the potential to provide or threaten love, security, and comfort. As adult behaviors designed to achieve security become activated in response to perceived stress and loss, it is likely that those behaviors will surface in response to the distress, anxiety, fear, and loss that divorce is for many people.

There are three styles of adult attachment behaviors: dismissing, free to evaluate, and preoccupied. In adult relationships, the secure attachment style is characterized by confidence and composure in emotional relationships. The securely attached style individuals view themselves as happy, trusting, and friendly, and accepting and supportive of their partner despite faults. Individuals of the securely attached style can recognize and acknowledge their distress, appropriately seek support from family members, manage negative feelings such as anxiety and hostility, and engage in constructive problem solving. Individuals of the preoccupied (anxious/ambivalent) style are characterized by neediness, obsession, emotional extremes, jealousy, and desire for reciprocation and union, and have shown high levels of anxiety and hostility. Individuals of the dismissing (avoidant) style are characterized by independence, self reliance, emotional aloofness, fear of intimacy, jealousy and emotional extremes. They do not acknowledge feelings of insecurity, fear intimacy, are more hostile and sensitive to rejection than the other styles.

Another critical piece in developing parenting plans is to discuss the impact of ongoing conflict between parents on the children. Researchers now view conflict, rather than the divorce or residential schedule, as the single most critical determining factor in children's postdivorce adjustment. The children who succeed after divorce, have parents who can communicate effectively and create a respectful coparenting relationship.

### **Erikson's Psychosocial Developmental Stages\***

#### **First Year of Life**

Infancy: Trust v. mistrust

If significant others provide for basic physical and emotional needs, infant develops a sense of trust. If basic needs are not met, an attitude of mistrust toward the world, especially toward interpersonal relationships, is the result.

#### **Ages 1-3**

Early childhood: Autonomy v. shame and doubt

A time for developing autonomy. Basic struggle is between a sense of self-reliance and a sense of self-doubt. Child needs to explore and experiment, to make mistakes and to test limits. If parents promote dependency, child's autonomy is inhibited and capacity to deal with world successfully is hampered.

### **Ages 3-6**

Preschool age: Initiative v. guilt

Basic task is to achieve a sense of competence and initiative. If children are given freedom to select personally meaningful activities, they tend to develop positive view of self and follow through with their projects. If they are not allowed to make their own selections, they tend to develop guilt over taking initiative. They then refrain from taking an active stance and allow others to choose for them.

### **Ages 6-12**

School age: Industry v. inferiority

Child needs to expand understanding of world, continue to develop appropriate sex role identity, and learn basic skills required for school success. Basic task is to achieve a sense of industry, which refers to setting and attaining personal goals. Failure to do so results in a sense of inadequacy.

### **Ages 12-18**

Adolescence: Identity v. role confusion

A time of transition between childhood and adulthood. A time for testing limits, for breaking dependent ties, and for establishing new identity. Major conflicts center on clarification of self identity, life goals, and life's meaning. Failure to achieve a sense of identity results in role confusion.

### **Ages 18-35**

Young adulthood: Intimacy v. isolation

Developmental task is to form intimate relationships. Failure to achieve intimacy can lead to alienation and isolation.

*\*Materials adapted from: Corey, G. Theory and Practice of Counseling and Psychotherapy. Pacific Grove, CA: Brooks/Cole Publishing Company, 1986.*

### **Time-Sharing Guidelines of Robert E. Adler, PhD\***

Based on the research findings that children experience long-term adverse effects from ongoing parental conflict and that children need frequent contact with each parent to maintain a close relationship with that parent, Robert Adler calls for overall balance in parenting plans. Adler, a well known specialist in the field of child development and divorce, believes there are as many good schedules for sharing time with children as there are good parents who are able to create and maintain them. There must be a balance between the children's need for stability and predictability of schedule and the need for a resolution of parental conflict. The children's needs for frequent and continuing contact with both parents must be balanced with the parents' schedules. The needs of older children must be balanced with the needs of younger ones.

**I. BIRTH TO 6 MONTHS:** One primary home. The other parent spends two or three hours, two or three times per week with the child; becomes primary caretaker one weekend day per week, or one 24-hour stretch once per week.

**II. 6 TO 18 MONTHS:** One primary home. The other parent spends from two or a full day, two to three times per week with the child, or one 24-hour stretch once per week. Or, two homes, although the child spends significantly more time at one of them and no more than two overnights per week at the other (for mature, adjustable children and cooperative parents).

**III. 18 TO 36 MONTHS:** One primary home. The other parent has the child during the days up to three times per week, on a predictable schedule. Or add one overnight per week. Or, two homes, with the child spending somewhat more time in one than the other--two or three overnights spaced regularly throughout the week.

**IV. 3 TO 5 YEARS:** Two or three nights at one home, spaced throughout the week, the remaining time at the other home. Or, three consecutive days and nights with one parent, four with the other.

**V. 6 TO 12 YEARS:** If parental conflict is low, school-age children can do well with many different parenting plans that allow for frequent and adequate contact with both parents.

A. Friday after school until Sunday evening or Monday morning, every other week, plus one or two overnights during the two-week stay with the other parent.

B. Three days with one parent, four with the other.

C. Alternating weeks with each parent.

D. Alternate weekends with each parent, two or three days at each home during the week.

E. Three and one-half days with each parent; weekends also split.

F. Two weeks with each parent, with one or two mid-week overnights with the other parent.

G. Older children may be able to handle even longer stays if frequent telephone contact and some physical contact with the other parent.

H. Children in one home for school year, with other parent for vacations, supplemented with frequent telephone calls and visits.

#### **VI. 13 YEARS AND UP:**

A. Home base with one parent, a mixture of scheduled and spontaneous overnights, shorter visits, and outings with the other parent.

B. Children spend school year as above. During summer vacation and other long holidays, the situation is reversed.

C. Work out year-by-year arrangements with older children that respond to teen's needs for continuity in friendships and school. \*Adapted from Adler, Robert E., PhD. *Sharing the Children: How to Resolve Custody*

*Problems and Get on with Your Life.* Maryland: Adler & Adler, Publishers, Inc., 1988.

#### **Talking to Children in Mediation**

Parents often come to mediation with the mistaken assumption that a mediator's job is to settle a dispute. When the dispute is regarding custody or time-sharing, parents often have opposite views of what they believe their children want and ask the mediator to talk to the children. For numerous reasons, confronting a child with such a question can put the child into a dangerous psychological position:

1. Children need to know they have parents they can depend on to make good decisions for them.

2. Children should not be asked questions that force them to choose between their parents.

3. Children are often too immature to know what is in their best interests. They'd love to be with the parent who will let them have chocolate cake for breakfast.

4. Children have great difficulty disappointing a parent they are completely dependent upon.

5. Children are often "prepped" to tell the mediator what the parent wants.

6. Children fear retribution (real or imagined).

Contrary to popular belief, there is no age when the child can legally decide where s/he wants to live. Recognizing the age of majority as the legal ability to decide residence and the potential emotional damage to a child, judges do not like to see children in the courtroom. If they talk to a child, they often prefer to do it in chambers and may hold it against parents and their attorneys.

There are appropriate times when a mediator meets with the children. A mediator may wish to get specific input from the children about how Mom and Dad can best help them through this time. Some common complaints are: "Make them stop fighting." "We're tired of tuna noodle casseroles." "Dad keeps asking me what's going on between Mom and her boyfriend." "Mom sends messages to Dad through me."

Another appropriate discussion may be to discover their specific holiday desires ("We want to have Christmas eve with Mom at Grandma's and Christmas day with Dad." "We want to have two turkey dinners on Thanksgiving." "I want my birthday at the pizza parlor so Mom and Dad can both come.").

A mediator may meet with the family after the agreement is in its final form to help explain it to the children.

In general, a child who is 12 years old should have input into his/her residential schedule. A child 15 years old or more should have very strong input. The mediator should make it clear to the child, or preferably to the parents, that we need input from the child, not decisions. If the mediator does not want to talk with the child, and if the parents cannot gather input from the child without compromising him or her, a child's counselor, or a mutually acceptable child development specialist can often speak to what is in that child's best interests.

Before talking with children in mediation, the mediator should get an agreement from the parents regarding the purpose of gathering information from the child. Ensure the parents understand the child's need for safety and comfort. Help them be sensitive to divided loyalty and dependency issues. Spend some time finding out from both parents what each child is like so you can use this information to build rapport when you talk with the child.

Before proceeding, get agreement regarding what the children are told ahead of time about why they are coming to mediation. The information must be clear (input only) and preferably presented by both parents together. Arrange for neutral transportation (both parents, or trusted family friend).

At the appointment, meet with parents and children together to explain what a mediator does, go over ground rules (we need their input not their decision) and explain the need for and limits of confidentiality. Get permission from the parents in front of the children for the children to talk candidly with the mediator.

Meet with the children together to make sure they understand why they are meeting with you and let them know how you're going to proceed. I find it helpful to meet with all the children together, then with each child separately, then reconvene with all the children again, then meet with the parents separately or together with the children, depending on the information gathered from the children. When meeting with each child separately, arrange their coming and going so they are not influenced by each other or their parents.

When meeting with a child under 9-10, you may find it helpful to have some art supplies handy. Children usually can express themselves more comfortably when they are playing. After some rapport building, a typical children's interview might proceed as follows:

1. Tell the child what Mom and Dad told you about him/her (their favorite activities, school subjects, friends, etc), include what the parents said they liked most about the child (affectionate, creative, helpful, etc.).

2. Ask what they like about Mom/Dad (do for each parent in turn).

3. Ask if there is anything they do that Mom/Dad don't like.
4. Ask if there is anything Mom/Dad do that they don't like (again, do for eac parent in turn).
5. Ask what Dad/Mom can do to make his/her life easier right now (again, do for each parent in turn and consider reversing order).
6. Let them know you are working with Mom and Dad on parenting issues and that you need their help to make good decisions. Make it clear that Dad and Mom are deciding and their role is give information (not decisions).
7. Ask about a child's holiday preferences.
8. Ask if there's anything they want you to tell Mom/Dad.
9. Ask if there's anything that you talked about that they don't want you to tell Mom and Dad.
10. Make sure they understand what you are going to do with the information they've shared. Make arrangements for a follow-up visit, or phone call.

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