

FOCUS ON THE



CHILD'S NEEDS

Plain Language Adaptation and Design by:
Transcend



June, 2004

— Important! —

If you have concerns about your safety or the safety of your children, tell the mediator right away.

Also read page 4 of this booklet.

Resources

Unified Family Court of Yolo

Clerk's Office
(530) 406-6704
www.yolocourts.com

Family Law Facilitator

Yolo Superior Court

725 Court Street, Room 209
Woodland, CA 95695
(530) 406-6794

500 Jefferson Blvd. Bldg. A, Suite 100
West Sacramento, CA 95605
(916) 375-6450

Yolo Family Resource Center

409 Lincoln Avenue
Woodland, CA 95695
(530) 406-7221

Yolo County Alcohol, Drug and Mental Health Services

Woodland: (530) 666-8650
Davis: (530) 757-5530
West Sacramento: (916) 375-6350
24 Hr. Crisis Line: 1-888-965-6617

Child Abuse

1-888-400-0022, *or*
(530) 669-2345

Sexual Assault & Domestic Violence

24 Hr. Crisis Line
Woodland: (530) 662-1133
West Sacramento: (916) 371-1907

Legal Terms

Legal Custody: the right and responsibility of parents to make decisions relating to the health, education, and welfare of the child/ren.

Joint Legal Custody: when both parents share in these decisions.

Sole Legal Custody: when one parent makes these decisions alone.

Physical Custody: how much time the children spend with each parent; where your children live; how day-to-day responsibilities are fulfilled.

Joint Physical Custody: when children spend a significant amount of time with each parent

Primary Physical Custody: when children live most of the time with one parent and the other parent has parenting time with the children on a regular basis.

Joint Custody: when parents agree to share parenting time, and where significant time is spent in each household. Both parents share legal and physical custody.

Parenting Time: when one parent shares time with the children and is fully responsible for them.

Supervised Parenting Time: when a parent spends time with the children while supervised by someone the court has approved. The court can order supervised visitation if there has been drug or alcohol abuse, child abuse or neglect, family violence, or other serious problems. Sometimes the court will say there can be no visitation of any kind.

Parents who separate or divorce must choose a parenting plan for raising their child/ren. This is one of the most important decisions parents make. Sometimes, it is also the most difficult.

California law says parents who cannot agree on a parenting plan must meet with a mediator. This booklet will help prepare you for mediation. It explains:

- What mediation is and how it works,
- How to make a good parenting plan,
- How to communicate with the other parent, and
- Important legal terms you should know.

Contents

What is mediation?	1-2
How do I get ready for mediation?	3
What kind of training do mediators have?	3
What if there is domestic violence or child abuse?	4
Communication that helps your children	5-6
Your parenting plan	7-8
Tips to make your parenting plan work	9-10
Legal Terms you should know	11
Resources	12

What is Mediation?

Mediation is a way to solve disagreements about child custody. It is not counseling. Your disagreement is seen as a problem to solve, not as a fight to be won.

The mediator will guide you and the other parent so you can make your own personal agreement about how you will care for your children now that you no longer live together.

This agreement is called a parenting plan. It is also called a “stipulation” or a “parenting agreement.”

The mediator will help you and the other parent:

- Create a parenting plan that is best for the children, and whenever possible, lets the children enjoy frequent and on-going contact with both parents.
- Learn the basic skills for a positive “co-parenting” relationship and how to deal with anger or resentment.

What will the mediator do?

The mediator meets with both parents together, listens to both of you, and then helps you work out a plan that is best for the children.

The mediator’s job is to be fair and impartial. S/he will help you and the other parent look at different options and create a parenting plan. The mediator will support both parents to create a parenting plan that best meets the children’s needs. In some cases, the mediator may also want to meet with the children.

If you and the other parent are unable to agree on an important issue, the mediator can make a recommendation to the court.

Adjust, if needed

You know your children. Watch them to see how well they do with the parenting plan. If they are not doing well, talk it over with the other parent and try to find a solution.

You may also need to make changes as your children grow older or when circumstances change. If this happens, you can talk it over with the other parent.

When talking with the other parent doesn’t work

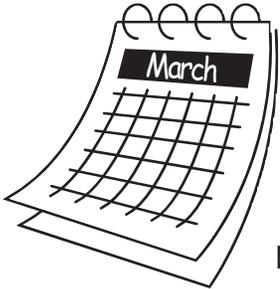
If you need help, an impartial person, like a minister or counselor, can guide you and the other parent. If that does not work, you may want to return to mediation.



Remember your goal!

Tips to make your parenting plan work

Use a Calendar



Use a calendar to show where the children will be and to keep track of their activities. Put your calendar in a place that is easy for you and the children to see and use. If there is a change in the schedule, explain why. Most children and parents do better when they know what to expect.

Be sensitive to your children's needs

Children need a sense of security and a predictable routine — especially during difficult times.

- Reassure them that the separation or divorce is not their fault.
- Tell them often you love them and will take care of them.
- Let them tell you how they feel about how all the changes have affected them.
- Ask them if they need anything from you, the parent.

When You Don't Agree

Over the years ahead, there will be times when you and the other parent do not agree on what is best for your children. This is natural – it happens even in the most cooperative relationships.

Do your best to listen and respect the other parent's point of view. Keep your emotions in check just like you would at work. Read "Communication that helps your children" on pages 5 and 6 of this booklet.

Are there rules we have to follow?

Yes. You must:

- Treat the other parent with respect.
- Listen to the other parent without interrupting.
- Give the other parent an equal chance to explain his or her viewpoint and concerns.
- Focus on what is best for the children.
- Remember that children have a right to a relationship with both parents.

You cannot threaten or intimidate the other parent.

Who will mediate?

You have a choice. You can choose your own private mediator. Or, you can go to the court and ask the court to assign a court mediator.

How do private mediators work?

Parents who use a private mediator go to the mediator's office and pay all the costs. It may take one or several sessions to create a parenting plan.

The judge will ask the name of the mediator, the date you began mediation, and if you have agreed on a parenting plan.

How do court mediators work?

In Yolo County, court-based mediators are licensed mental health professionals. There is no cost for a session with the court-approved mediator.

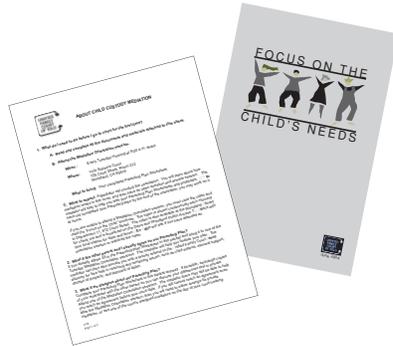
Sometimes, the judge orders parents to court mediation. But, if court mediation does not help you agree on a parenting plan, you are free to see a private mediator. But you and the other parent – not the court – must pay for the private mediator.

How do I get ready for mediation?

Before meeting with the mediator, you must:

- Read this booklet carefully.
- Read *About Child Custody Mediation* and the other materials in the Mediation Packet. Be sure to follow all the instructions carefully.

If you have any questions about these materials, write them down and take them with you to your mediation.



What kind of training do mediators have?

In California, the requirements to become a court mediator are:

- A master's degree in counseling, social work, or a related field; and
- At least two year's work experience in the mental health arena.

Most mediators have many years of experience and are often licensed clinical social workers, marriage and family therapists, or psychologists. Mediators must also do 16 – 26 hours of continuing education each year.

- Which parent will supervise homework, sports, or music activities and whether this responsibility will be shared or not.
- Who will transport the children to and from their activities, and who will pay the costs.
- Whether there are any agreements that may help the children adjust to the parenting plan (like a regular bedtime, consistent schedule at both houses, same childcare arrangements by both parents, etc.)

Legal custody

Legal custody means who makes important decisions for the children (like health care, education, and other important decisions).

Your parenting plan must be clear and specific about which decisions each parent can make alone and which decisions must be agreed on by both parents.

Think about the best way to decide on the children's schools, health care, emergency care, day care, and sports or other extra-curricular activities.

As the children get older, you will need agreements on jobs, driving and social and religious activities.

No matter who has physical or legal custody (except if there is abuse or violence), you can always:

- ask the other parent for information about the children
- call the children
- access the children's medical and school records
- have the other parent's address and phone numbers

Your Parenting Plan

The court expects you and the other parent to create a plan that is best for your children.

A parenting plan helps kids:

- *Feel loved, secure and cared for*
- *Get the attention and special care they need*
- *Know who they will be with and when*

A good parenting plan must:

- Meet your children's basic needs for love, protection, guidance, a healthy diet, good medical care, and enough rest.
- Take into account your children's age, personality, experiences, and ability. Each child is unique. Adapt your plan to your children, not your children to your plan.

- Provide your children with regular, consistent times with each of you for day-to-day care, overnights, activities, schoolwork, vacations, and holidays.
- Have enough detail to make it easy to understand and to enforce.
- Include guidelines to help you and the other parent communicate effectively and avoid further escalation of conflict, if needed.
- Give your children a sense of security and a predictable routine.

Physical custody

Your parenting plan will say who has *physical custody* (which parent the children will live with most of the time).

You and the other parent need to make agreements on:

- Where the children will be during the week and the weekend.
- Where the children will be for holidays, summer vacation and special days like birthdays and special events.

What if there is domestic violence or child abuse?

If you have concerns about domestic violence or the safety of your children, tell the mediator right away.

Also, call the 24-Hour Hotline at the Sexual Assault and Domestic Violence Center:

Woodland: (530) 662-1133

West Sacramento: (916) 371-1907

And, tell your lawyer, if you have one.

Domestic violence can be spoken, written, or physical. It can include many things, like hitting, kicking, throwing things, destroying property, pulling hair, pushing, stalking, harassing, or sexual assault. It can also include other actions that make someone afraid of being hurt.

If there was domestic violence in your case or if you have a current restraining order...

You have the right to meet alone with the mediator at a separate time. Or, you can take a support person with you to the mediation. But that person cannot speak for you in mediation.

Child abuse

If the mediator suspects child abuse of any kind, s/he is required by law to report it.

If there is child abuse in your case, ask the mediator for a list of community resources that can help you and your children.

It is a crime to report abuse when you know it is not true.

Communication that helps your children*

The way you express your thoughts and feelings to the other parent and your child/ren makes a big difference in how well your children (and you!) will adjust to the separation or divorce.

Try to think about the other parent more formally, like a business associate or co-worker. Behaving and speaking in a more “businesslike” manner can help each parent move away from the pain and stress and help you focus on raising the children.

Your ultimate goal is to develop a way to work with the other parent that is best for your children. It may not be easy at first, but people who keep at it say it’s worth it in the long run.

Here are some tips:

1. Speak politely, just like you would at work.
2. Stay on the subject being discussed. And, stay in the present. Don’t bring up past hurts or complaints.
3. Focus on your goal: Do what is best for your children.
4. Control your emotions, just like you do at work.
5. When you make arrangements with the other parent, be clear and specific. Put things in writing and keep businesslike records of important agreements between you.
6. Keep an open mind. Assume the other parent has good intentions for the children. This doesn’t mean letting the other parent take advantage, but listen before you judge. Check out the facts and ask for details before you jump to conclusions.

7. Keep your commitments. Being trustworthy and reliable will make co-parenting easier, and it is especially important for your children to see you in this light.

8. Choose your words carefully when you talk about your divorce, the other parent or custody. For instance,

Instead of saying:

Wife, ex-wife

Husband, ex-husband

Has visitation with

Custody and visitation

Say:

children’s mother,

children’s father

stays with, comes over

parenting plan, agreement

*Adapted with permission from *Mom’s House, Dad’s House*, Isolina Ricci, Fireside Books, New York, 1997.