

PRACTICE HINTS: PARENTING RESPONSIBILITIES ISSUES

OVERVIEW

For many parties, parenting responsibility issues will be relatively easy and the mediator's role will be to merely organize the specific issues that need to be decided. A checklist of those issues are set out in the Parenting Plan section of the Agreement format. However, some parties may need to be encouraged to consider the value of a "fall back", "worst case scenario" specific plan to be put into effect should serious conflict arise in the future so that the children are not inadvertently caught in the middle of parents' difficulties.

For many parties, and especially those for whom parenting issues are an identified source of stress, it will be important to lay-in groundwork before the actual negotiation occurs to minimize unnecessary conflicts that arise out of misinformation or lack of information. Those include:

- An overview of the issues that need to be decided and organization of issues—distinguish time arrangements from decision-making issues (pre-emptive education).
- Check understandings of terms, especially legal concepts such as "custody" and "joint" or "sole" custody. Most parties (lawyers and judges included) either don't understand or have different interpretations of the terms (pre-emptive education).
- Identify what both parties agree the children require from both parties and encourage parties to visualize theirs and the other parent's future relationship with the children (ground softening exercises).
- Lay negotiation format into place—what do each of you want/offer to accept and agree with the other.

Remember, the more difficult the issue, the greater the importance of breaking it up into manageable parts and perhaps shortening the sessions. As well, try to structure the process so that there is sufficient time between sessions for the parties to think about and assimilate the information.

Remember, words create realities—avoid using terms such as "custody", "visitation", "primary parent" and talk instead of parenting responsibilities, time arrangements, and both parents. Explain why you prefer the use of that language to clients when either of them use those words. (This should be begun at the first contact with the parties in mediation and continued throughout the process, not just at the time the parenting plan is being discussed.)

SYSTEMS PERSPECTIVE

The graphic of the family (genogram), done in the consultation session, is often helpful here for the parties to visually see their family as a system.

In difficult cases, the family hierarchy breaks down and the parents will often triangulate or form alliances with the children. Parents often abdicate responsibility and give too much power to children—"They can decide who they want to live with." The legal system (judges and lawyers) often contributes to the breakdown of the family hierarchy by concentrating on the "right" of a child to decide instead of the needs of a child.

Certain operating assumptions need to be examined and, if appropriate, raised with the parties:

- Children are almost always "caught in the middle"—unwittingly or intentionally.
- Children will often say what they sense a parent wants to hear.
- Divorce may be more difficult for older children (adolescents) than younger children; that is when children are trying to figure out their own sexual identity and relationships. Adult children are also strongly affected by parental divorce.
- Parents tend to functionally neglect children in divorce.
- CHILDREN SHOULD NOT BE REFERRED TO AS "VICTIMS"—THAT SETS UP A "BLAME" SITUATION. IF THE CHILDREN ARE VICTIMS OF DIVORCE, THEN THE PERSON WHO WANTS THE DIVORCE IS TO BLAME.
- CHILDREN ARE FUNCTIONAL CONTRIBUTORS (OR MANIPULATORS?) OF THE CONFLICT—THEY ARE NOT INNOCENT OR GUILTY. (See Saposnek, D., *Mediating Child Custody Disputes*).
- How parents parent is often more a reflection of spousal relationship than a response to childrens' needs, e.g., if one parent is strict, other is likely to overcompensate by being permissive.
- Overgeneralization—men will control with money; women with children.