

# Whose Time Is It Anyway?

How to develop a sensible parenting plan for parents and their children

By RONALD W. NELSON



**One of the most highly charged and emotionally driven decisions after separation is how parents will share time with their children.**

Everyone involved has a personal interest in maintaining close and continuing contact with the children—and each parent fears that separation will negatively affect this relationship. Because of the strong psychological connections most parents have with their children, even small changes in routine can seem momentous. In fact, however, parents often spend *more* time with their children after separation or divorce because they become more aware of the time children spend away from them and with the other parent.

One way courts and legislatures have tried to help families deal with the emotional and psychological effects of separation is to change the language they use in referring to postseparation parenting. While historically the law referred to one parent as having “custody” and the other parent as having “visitation,” over the past 25 years, states have moved toward less “possessory” and more “open” language, such as “parenting time,” “parent-child access rights,” “companionship,” or “parenting arrangements.”

As was stated more than forty years ago in the groundbreaking book, *Beyond the Best Interests of the Child*, “[a] ‘visiting’ or ‘visited’ parent has little chance to

serve as a true object for love, trust, and identification, since this role is based on his being available on an uninterrupted day-to-day basis.” Likewise, as noted author Isolina Ricci has said in her book, *Mom’s House, Dad’s House, Making Shared Custody Work*, “Given any voice in the matter, younger children will almost always choose a two-parent, two-home alternative over a one-home arrangement with the other parent consigned to the sidelines as visitor or, worse yet, faded away.”

The law no longer designates one parent as the “primary” or “responsible” parent. Instead, both parents have equal rights to interact with their children according to an agreed upon or court-ordered division of time. But how does a separating family arrange an agreeable plan so that both parents have time with their children and in a way that emphasizes the importance of each child to those parents—and each parent to each child?

The answer isn’t as difficult as it seems—at least not when everyone involved (parents, counselors, lawyers, judges, and other allied professionals) is able to think creatively, inventively, and cooperatively about a family-appropriate

parenting plan. The goal is to set aside petty jealousies, interpersonal issues between parents, and focus instead on the child's best interests. Parents should handle all interactions, associations, and activities involving the child, the other parent, and others with whom the child and parents interact in the best way possible for everyone involved. The "trick" is to arrive at a plan without imposing one's own preconceptions or traditional notions of what is "right" or "normal." Stay away from "cookie-cutter solutions" for a family that is like no other.

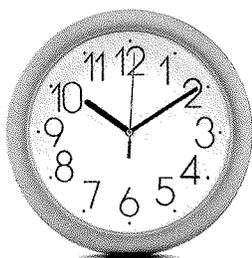
The first place to look for guidance is often the factors courts and legal attorneys use in determining court-ordered parenting plans. Most states use very similar criteria to determine which parenting plan is in the best interests of the children. Some factors

include: the wishes of the parents and the child; the nature of the child's relationship with and frequency of interaction with parents, brothers, sisters, and others who are important to the child; the child's adjustment to home, school, and community; the physical distance between parents; the mental and physical health of the child and of all individuals involved; the ability of each parent to encourage an appropriate relationship with the other parent; past patterns of parental involvement with the child; whether one parent has been a perpetrator of child abuse, child neglect, or partner abuse; and the ability of each parent to place the child's needs ahead of his or her own.

Current research suggests that children do best when parents cooperate and agree on what is in

the child's best interest. Children do worse when parents argue, fight, and refuse to agree on how best to raise their children, or when and how much time each parent should spend with their child, or in which activities their child should engage.

A detailed, written parenting plan helps to provide predictability for both children and parents. A well-thought-out parenting plan reduces parental conflict by clearly setting out each parent's rights and responsibilities, the days and times each is expected to be with the child, how and when the child will be exchanged, and other provisions. Although a parenting plan can clarify scheduling between parents who get along, it is critical in high-conflict parenting relationships and where the safety of either parent or the child is at issue.



## The Best Way to Structure Your Plan

Most families follow some general guides based on "traditional"

assumptions about middle-class family life, for example, a 40-hour work week for parents, beginning on Monday and ending on Friday, with weekends and major national holidays "off." Children are assumed to be in a traditional school setting (Monday through Friday) for nine months each year. Thus, a typical plan might include: "alternating weekends with each parent, and one or two weekday evenings or overnights every week for the parent without primary residency." Often, parents have the same schedule for all children, no matter the number of children, their ages, their developmental levels, their special needs, or their need for connection with each parent.

It is a good idea for parents to build into any plan some "one-on-

one" time with each child. Think of it as connecting and interacting with each child without distractions. It doesn't have to be a large block of time and it doesn't have to be arranged in a way that creates difficulties for either parent's work or personal schedules. For example, Dr. David J. Palmiter, Jr., a mental-health practitioner in Clarks Summit, Pennsylvania, and author of the 2011 book, *Working Parents, Thriving Families*, suggests that each parent spend at least one hour a week of one-on-one time—all at once or in segments—with each child, interacting only with that child. Even if not part of the formal parenting plan, this is a good way for parents to connect with each child.

Over the past 20 years, parents have had equal or nearly equal time with their children. This does not mean, however, that parents have their children 50 percent of every week. Instead, parents are flexible and shift their children between

households according to the child's needs on a daily or weekly basis, which approximates 50 percent of the time. Of course, this "indeterminate" schedule is frustrating for some.

Although many parents believe that a "shared parenting" arrangement is best and "fairest," fairness to parents is not the hallmark of a good or workable parenting plan.

The parenting allocation of time must be within a *range* of what is best for the child, as defined by state factors and in light of the children's schedules, both parents' work and activity schedules, and affording quality time for parents and children. It is not about dividing up a calendar so that neither parent feels deprived. The truth is that before the separation, parents likely had less time to "interact casually" with their children. In the separated or divorced family, they may have more one-on-one parenting time.



## Siblings and Significant Others

Because the law requires parents and the courts to first consider the child's best interests, any plan should take into account the child's interactions with others: siblings, friends, schoolmates, grandparents, and any others with whom the child has a significant relationship. With remarriage and blended families, it is more likely than ever that children will have close connections to the children of their parents' new spouse or partner. Depending on state law and court decisions, these relations may come into play in determining what a good parenting

plan looks like, while also considering the U.S. Supreme Court's decision in *Troxel v. Granville*. (See page 23.)

In *Troxel*, the Supreme Court ruled that when balancing the rights and claims of any third party to spend time with a child, "at least some special weight must be given to the parent's own determination." Ultimately, parents—or the court—must decide whether spending time with others is in the child's best interests. Parents must balance their own right to spend time with their children in a way that best fits the family and the child's interests.

## Holidays and School Breaks

Another area of concern is how to manage holidays and school vacations. As with all other parenting time schedules, holidays require flexibility, cooperation, and a focus on allowing children to enjoy special times—and new traditions—with each parent.

In developing an appropriate parenting plan for holidays and school breaks, the first question should be "is there a need?" In some cases, the best holiday schedule may be to extend the regular schedule. Sometimes the only reason to come up with a separate holiday schedule is that parents have special religious, cultural, or national holiday

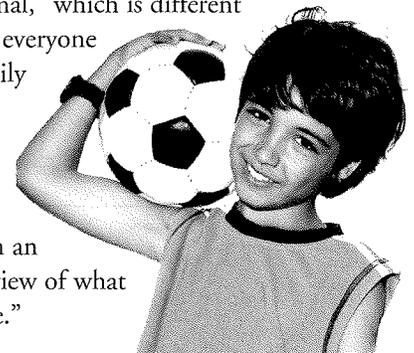
traditions they want to share with their children.

For example, some extended families celebrate a particular holiday on the day, evening, or weekend before the holiday, whereas others celebrate the holiday only on the designated day. One holiday may have more significance for one parent than the other, or a parent may want to begin a new tradition by focusing on a holiday the family or parent previously did not celebrate. Many parents want their children to be with mom on Mother's Day and with dad on Father's Day. The goal should be a holiday schedule that fits each family's traditions.

## Kids' Activities

One difficulty many separated parents have is what to do when a parent's scheduled commitments conflict with the child's activities: school, after-school, sports, social events, athletics, etc. Some parents insist on carving out time for themselves; whereas others insist that both parents devote whatever time they have to their children. As with everything else, the sane solution lies somewhere in the middle—and, of course, varies from family to family, if not child to child.

Arriving at a "child-focused" parenting plan doesn't mean that parents must forsake their own needs and life demands. Although parents need to spend quality time with their children, the best arrangements are those that create a "new normal," which is different from how everyone in the family previously interacted but not overly focused on an idealized view of what "should be."



## Conclusion

In the end, the question remains: whose time is it, anyway? The answer is "it's the child's time." The purpose of parenting time is not to satisfy either parent's need for a companion after the breakup of the marriage, and it is not to "fairly and equally divide" the child's time between parents because each has "a right" to spend time with their child. Nor is the purpose to allow one parent to jealously deprive the other of parenting time with a child. It is the child's time to be with each parent, to benefit from each parent's care, companionship, instruction, and influence. It is the time for each parent to enjoy the child in a way that best serves the child's interests and developmental needs and that gives the child a good foundation for the rest of his or her life. **FA**



**RONALD W. NELSON, ESQ.**, is the principal of Ronald W. Nelson, PA, in Lenexa, Kansas.