

Read more at <https://www.lynchowens.com/blog/>

Mediating Shared Physical Custody Agreements In Massachusetts October 30, 2019 | By Jason Owens

Categories: [Mediation](#) | [Carmela M. Miraglia](#)

Massachusetts mediator Jason V. Owens explores how parents use mediation for shared physical custody schedules.



Many mediation clients enter mediation already having agreed to share physical custody of their children. Many other parents enter the process unsure how to [mediate a parenting schedule](#) that fits their [children and family's individual needs](#). What's clear is that more and more divorced and [unmarried parents](#) now view shared physical custody as a viable option. (Note that in Massachusetts and other states, the phrase "joint physical custody" is used interchangeably with "shared physical custody". These labels mean the same thing.) There are many reasons for the increase in shared custody, including an

increase in families in which both parents work full time (i.e. dual-income households), as well as societal changes in child-rearing, with a trend towards fathers being involved in more parenting tasks that were traditionally managed by mothers in the past.

Challenges for Parents who Meditate Shared Physical Custody of Their Children

Parents who share physical custody face a variety of unique challenges. The best mediated parenting plans recognize these challenges and incorporate solutions directly into the parties' agreement. Among the challenges faced by parents with shared physical custody include:

- The need for positive coordination and communication between parents. Because children are frequently changing households, and the parents are splitting time during the school week, it is imperative that parents with shared physical custody show a willingness and ability to communicate about "lunch pail" issues such as the children's homework, school schedules, activities and day-to-day concerns. Although parents **do not need to get along to mediate their divorce**, a degree of cooperation is generally essential to making shared custody work.*
- The advantages of closer proximity of parents' homes. Shared custody tends to require that children make more trips back and forth between each parent's home. In addition, shared custody generally requires each parent to take a greater role in transporting children to and from school, after-school activities, practices and social events. For these reasons, shared custody arrangements tend to grow increasingly challenging, the **further parents live from each other**. Even if parents live close to each other, each parent's work commute can impact a parent's availability and responsiveness to issues that arise such as sick days from school and after-school events.*
- The challenges of working full-time with shared custody. Many parents with shared physical custody work full time. These parents often need to work cooperatively to minimize conflicts between the parenting schedule and their respective work schedules.*

Divorced or separated parents with the *best co-parenting relationships* utilize parenting schedules that maximize each parent's availability with the children while minimizing work disruptions. Invariably, the challenges faced by parents with shared custody depend on factors like the age of the children. For example, with young children who are not yet enrolled in elementary school, the biggest challenge is often finding child-care coverage for the children. Meanwhile, parents with teenagers must work together to ensure their teens are not playing the parents off one another, and deal with challenges such as a teen's dating relationships, mental/emotional health and college related stress. In between toddlers and teens are a wide range of parenting challenges, ranging from after-school sports to homework habits to puberty. Divorcing parents with younger children are often rewarded by thinking ahead while planning their parenting plan. Meanwhile, parents with older children are often best served by focusing more narrowly on tackling the immediate issues their kids will face in the next few years.

Finding Joint Custody Solutions Through Mediation

There are several major advantages to mediating your divorce compared to litigation. Among the biggest advantages is that *mediation rewards creativity*, cooperation and positive communication between parents on *child-related issues*. For parents who can look past negative emotions towards each other, the key to a cooperative co-parenting relationship often arises out of *mutual respect* and thoughtful communication during the mediation process. Thankfully, mediation offers solutions to many of the shared custody challenges above, including the following:

- *Creating a schedule that encourages strong and consistent routines for children. One advantage experienced by children who primarily reside with one parent is that the children have a more consistent "home base" from which they can plan and live their every-day lives. Parents who share custody must ensure that*

children have *consistent routines* between households to undertake tasks such as doing homework and ensuring rides to and from after school activities.

For many parents who share custody, the best way to ensure their children have strong routines is for each parent to have the children on specific “school days”, at least during the school year. For example, one parent may have the children overnight every Monday and Tuesday each week, and the other parent has the children every Wednesday and Thursday. Fixing the specific days that each parent has with the children each week makes the schedule more predictable for both the parents and children, allowing the children to build consistent and reliable routines at each home.

Of course, there is no “out of the box” solution that works for every parent. For example, for children who attend private school away from either parent’s home, it may make sense for parents to assign parenting time in solid blocks of time on a weekly or even monthly basis. In contrast, if parents live with a few houses of each other on the same street, it may make sense for children to alternate back and forth between the homes nearly every day (for example, if one parent is available to watch the children immediately after school every day).

- *Choosing a parenting schedule that compliments each parent’s work schedule. Work responsibilities often vary widely between parents, with one parent better equipped to deal with unexpected changes – such as a child staying home sick from school – than the other. Parents who can foresee these concerns and “bake in” solutions for the future often do best in shared custody arrangements. Mediating parents often need to view their shared custody schedule both in terms of immediate, practical terms (who will pick the child up from soccer practice over the next six months) and longer term projections (when is the need for after school child care likely to drop away; when will a child’s athletic schedule begin to dominate his or her time, etc.).*

As a starting point, most parents with shared custody make each parent responsible for handling issues that arise with the children during that parent's parenting time. For example, if a parent has regular parenting time all day every Thursday, that parent would be responsible for getting the child to and from school (and after school activities) every Thursday, providing after school child-care and dealing with unexpected issues, such as the child being too sick to attend school. However, many parents' work schedule involves complexities such as overnight travel, a long commute into the city, or a lack of flexibility to work from home. Mediating parents are well positioned to identify thoughtful solutions to work-related concerns in their parenting plan.

- *Creating a parenting plan that is built to last. Finally, mediation rewards parents who think ahead. Caring for a 4-year old is very different than caring for a 14-year old. Parents can't foresee every possible future issue involving their children, but mediation encourages parents to consider and communicate about the future, including (a.) positive goals and outcomes the parents would like to see for their children and (b.) potential pitfalls and complications they may face down the road.*

Mediation enables parents to consider and plan for how to encourage certain child-related outcomes, discourage others, and build in flexibility and responsiveness to their parenting plan. Even if parents do not agree on a specific solution to a potential future problem, a mediated parenting plan can include more general language about how parents intend to address similar solutions in the future, which can have a shaping effect on both the parents and a future judge or mediator who finds him or herself considering the issue many years later.

L&O

ESTABLISHED 1995

Need a Family Law
Lawyer? Hire the Best



Need a Divorce Mediator?

CONTACT JASON TODAY!

Jason V. Owens
Family Law Mediator

The Devil in the Details: Crafting a Well-Written Shared Custody Agreement

Mediation is all about reaching consensus, resolving conflict and developing solutions. At the end of the day, however, parents are asking their mediator to deliver a final product: A clear, legally enforceable agreement that the parties can sign and rely on for years to come. Such an agreement must include details such as a [thoughtful holiday schedule](#), provisions regarding information sharing and access to records, parental conduct provisions (such as non-disparagement clauses to avoid parental alienation), travel provisions (such as how the child's passport will be handled) and clear language articulating both the specific terms of the parenting plan and the conditions under which the parties can formally or informally modify the parenting plan when new issues arise. Parents seeking to mediate a shared custody agreement should start by asking their mediator a simple question: how many parenting agreements has the mediator prepared over his or her career? Ideally, your mediator has prepared dozens (if not hundreds) of parenting plans, such that he or she knows (a.) how to phrase the intentions of the parties to ensure their positions are translated into clear, enforceable terms, and (b.) how to spot errors, omissions and/or inconsistencies in the parenting plan that could prove problematic in the future. A good mediator is not just a strong consensus builder; a mediator needs to write clear, binding agreements that can withstand the scrutiny of future attorneys and judges.

Jason is a divorce mediator for South Shore Divorce Mediation, located in Hingham, Massachusetts and East Sandwich, Massachusetts. He is also a Senior Attorney and Partner at Lynch & Owens, P.C., where he specializes in divorce and family law issues. Jason is a statutory mediator under [M.G.L. Ch. 233, s. 23C](#) and a proud member of the Massachusetts Council on Family Mediation. To read more from Jason Owens, check out his content on the [Lynch & Owens Blog](#).

Disclaimer: The information you obtain at this site is not, nor is it intended to be, legal advice. You should meet with an attorney for advice regarding your individual situation. You are invited to contact our office. Contacting the office does not create an attorney-client or mediator-client relationship. Please do not send any confidential information to the office until such time as an attorney-client or mediator-client relationship has been established. This blog is considered an advertisement for the Law Office of Lynch & Owens, P.C. d/b/a South Shore Divorce Mediation. The Massachusetts Rules of Professional Conduct broadly govern all advertisements and communications made by attorneys and law firms in the Commonwealth. Generally, legal websites and any other content published on the internet by lawyers are considered a type of communication and an advertisement, according to the Comments to Rule 7.2.

© Lynch & Owens, P.C. and www.lynchowens.com, 2019. Unauthorized use and/or duplication of this material without express and written permission from this site's author and/or owner is strictly prohibited. Excerpts and links may be used, provided that full and clear credit is given to Lynch & Owens, P.C. and www.lynchowens.com with appropriate and specific direction to the original content.