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## **Mediating Tips: Child Custody And Parenting Time**

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*Mediator James M. Lynch reviews the details required in mediating successful parenting schedules.*



*It is common in divorce mediations for the parties come into their initial session with the mediator thinking that they already have an agreement on the big picture details that comprise a divorce Separation Agreement only to be surprised by the many details that*

had not occurred to them. This is particularly true in the small details of a *custody and parenting time agreement*.

### *Mediating Custody: Why Are the Small Details Important?*

To be sure, if there is an agreement in principle coming into the initial mediation session relating to the parenting time breakdown – i.e., what percentage of the time the children will be with each parent during any given week (the “base parenting schedule”) – the parties have already resolved the thorniest part of the divorce agreement. However, there are a lot of details to be worked out for the Separation Agreement beyond the weekly parenting schedule that the parties can work out on their own prior to formal mediation. If these exceptions to the base parenting schedule are not addressed in the Separation Agreement, then the parties will very quickly be back in court asking for the judge to sort them out. Those details often include *mediating holiday and vacation schedules* such as:

**a. Thanksgiving, Christmas Eve and Christmas Day.** Some parents want part of each holiday every year. If so, time has to be blocked off and pickups and drop-offs have to be addressed with specificity. Sometimes the parents will alternate these days on an odd year – even year basis. For example, in odd numbered years, Father will get the children on the Wednesday before Thanksgiving after school until Thursday at 3 p.m. while Mother will get the children for Christmas Eve until Christmas Day at 3 p.m. And in even numbered years, the schedules are reversed. There is no standard formula for dividing these days and some parents prefer getting whole holidays – e.g., one parent gets all of Thanksgiving while the other gets all of Christmas on an odd-even year alternating basis. The important thing in every agreement is that dates, times and transportation duties all be spelled out in detail so there can be no future misunderstanding. It also doesn't hurt to state clearly that these holidays override the base parenting schedule.

**b. Christmas, February and April Vacations.** These also can be divided on an odd-even year alternating basis or any way that the parties wish. If they are treated separately from the rest of the weeks in the year, then those weeks should be identified in the Separation Agreement as weeks that override the base parenting schedule. Start and end times as well as pickup and drop-off responsibilities should also be specified. If the vacation involves travel, the providing of itineraries, hotels and telephone access to the other (non-vacationing) parent are topics that should be discussed.

**c. Summer Vacation.** It is common for parents to set aside specific vacation weeks, often 2-week periods, for undivided time with each parent that overrides the base parenting schedule. It is also appropriate to address how those weeks get selected in the parenting schedule. Usually, an annual deadline is agreed upon for the first parent to make his/her week(s) selection, and the first choice will alternate from parent to parent on an odd-even year basis. Start and end times as well as pickup and drop-off responsibilities should also be specified.

**d. Easter, High Holidays, Parents' Birthdays, Children's Birthdays, Mother's Day, Father's Day, etc.** All of these days should be addressed in the Separation Agreement and should override the base parenting schedule. Start and end times as well as pickup and drop-off responsibilities should also be specified.

**e. Memorial Day, July 4<sup>th</sup>, Columbus Day** – Unless days like these are addressed, then they will be handled as they fall in the base parenting schedule, which is fine as long as that is what the parents intend.

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## *Balancing Structure and Flexibility Key to Co-Parenting Plan*

*There is a lot to discuss and map out for a [comprehensive parenting plan in a mediation setting](#) and the parties should attempt to address as much as they can prior to the initial mediation session. The most successful co-parents are the parents [who are the most flexible](#) in their approach to scheduling. At the same time, a complete lack of structure sometimes leaves parents without a fallback plan when facing a tough decision. The best way for parents to view their parenting plan as both a default schedule – so that parents are not forced to plan every detail of their children’s lives with each other – and as a fallback if a flexible approach does not work. A good parenting plan often allows for flexibility, while offering a clear, structured resolution in the event parents encounter problems along the way. It is important to remember that, those parents are the ones who are open to the idea of swapping off times to accommodate each other’s changing schedules, while also understanding the value of personal time without the children and the need for parenting breaks.*

***Schedule a mediation with [James M. Lynch](#) today at (781) 253-2049 or send [him an email](#).***

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