

Parenting After Separation

*A Handbook
for Parents*



*for your
child's future*



ADMINISTRATIVE OFFICE
OF THE COURTS

JUDICIAL AND COURT OPERATIONS
SERVICES DIVISION

CENTER FOR FAMILIES, CHILDREN & THE COURTS

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Parenting after Separation

This handbook focuses on the needs of children when parents separate and how you can help meet those needs.

Your children need your love and support throughout the separation, which is a difficult time for them. They also need your love and support through the post-separation years, as your family adjusts to a new life.



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For more information on the Parenting after Separation Handbook or to view this handbook and other materials online, please visit www.courts.ca.gov/selfhelp-custody.htm and www.familieschange.ca.gov. To order copies of the handbook, please call 415-865-7739.

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A Handbook for Parents

Introduction

The process of ending a relationship is a challenging one for parents. It can mean:

- developing new parenting arrangements;
- helping your children make a positive adjustment;
- dealing with your own emotions; and/or
- making legal decisions in the best interests of the children.

This handbook provides information about:

- how children experience the process of separation and how you can help them;
- how parents experience the process of separation;
- how you can have a healthy parenting relationship with your children; and
- what to do when safety issues are involved.

It also looks at:

- what options are available for making decisions;
- how you may be able to use mediation (in some courts, referred to as child custody recommending counseling);
- what the Child Support Guidelines are and how they apply;
- what to expect when you go to court; and
- where to get more information and help.

This handbook gives you tools to work with. You may wish to use the handbook over time, rather than going through it all at once. The worksheets at the end of each chapter provide an opportunity for self-reflection and help you plan the next steps.

Who this handbook is for

You may be:

- married;
- living together; or
- have never lived with the other parent.

You may have already left the relationship or just be thinking about it. This handbook is also for *family and friends* who have a relationship with the children.

Abuse and safety issues

If one parent has been abusive toward the other parent or a child, it is very important to have a parenting plan in place that will help everyone stay safe. If you feel your safety or your children's safety is at risk, making sure you and your children are safe is the number one priority. You may want to talk with a lawyer to find out the best legal way for you to proceed.

If you are afraid for your and your children's safety, contact 911 or call the National Domestic Violence Hotline at 1-800-799-7233 (1-800-787-3224 (TTY)).

They will refer you to services near you. You may need to talk to a lawyer. Pages 36-39 of this handbook describe arrangements for parenting time that can be agreed upon or ordered to protect you and your children.

All adults have the responsibility to protect children from being victims of abuse or witnessing ongoing violence. Some strategies for effective parenting that we describe in this handbook may NOT be appropriate in your situation.



Many people describe the process of separation as being like layers of an onion.

The Experience of Separating for Adults

Our ability to hear our children's point of view is improved when we acknowledge our own emotional experiences of separation and try to understand them. When we are aware of what's happening with us, we can better help our children.

Separation: A process that occurs over time

Separation is a process that begins long before couples actually separate. With separation, adults experience loss at many levels. On one level, we lose the person we were once involved with. At another level, we lose the hopes or dreams we had for the relationship with that person.

Researchers have found that in most cases it takes about two years to fully recover from a separation and that the process of recovery is similar to the grieving process.

Understanding our emotional experience during the process of separating helps us understand what our children are experiencing. We must realize that they, too, are going through their own separate grieving process.

Deciding to separate

The decision to separate is probably one you did not make quickly or easily.

Often, couples try repeatedly to make the relationship work before deciding to end it. In the end, most couples do not come to a mutual decision to separate. Usually one person is more ready to take the final step than the other person.

Emotions of separating

Everyone who separates from a partner experiences many different types of emotions.

You may feel sad, depressed, anxious, angry, happy, relieved, guilty and ashamed. Parents that have separated say that they experience more than one emotion and that their emotions are unpredictable. You may feel happy and relieved in the morning, but angry and hurt in the afternoon. Many people experience feeling shaky and vulnerable.

Feelings do not cause behavior

We have no choice about what we feel, but we do have a choice about how we act on those feelings. We can choose to respond in ways that help the children make a positive adjustment.

How you handle your own feelings and how you relate to the other parent will affect how well your children adjust to the separation.

Example: If you can be aware that you are feeling depressed/angry/upset, you can choose what to do about it. You may choose to call on a friend or relative to help out with the role of parenting while you take some time to deal with your emotions.

Stages of separating

The stages of separation are a lot like the stages of grief. We are grieving for the end of the family as we have known it.

Usually a person who separates goes through four psychological stages of loss and grief:

1. Shock

When we are overwhelmed by strong emotions, our brain has a protective mechanism that shuts down feelings. People in this stage usually say they feel nothing or they feel numb and anxious.

2. Anger

The numbness disappears and the feelings return. We may feel anger, resentment and anxiety. We ask: how can this be happening?

3. Transition

This is a period of confusion and mixed emotions. In this stage, we review the relationship and what went wrong. We may try to persuade the other person to come back. We may tell ourselves that if only we had done (or not done) certain things, the relationship would have continued.

People say they feel like they are on a roller coaster. One minute they feel relieved and certain. The next minute they feel sad and uncertain.

This is the stage when we begin to make the psychological shift from being part of a couple to being a single person again.

4. Acceptance

In this stage, we have accepted the separation. We may have established a working relationship with our former partner and we are moving forward in a new life.

Important: Not all people go through the stages in this order. Also, some people go through the stages in six months, while others may take less time or may take much longer. Some go through the stages before they even separate. Some go back and forth through the stages as they work through the separation process.

On the emotional roller coaster?

Remind yourself:

- It is normal.
- It will not last forever.

The Experience of Separating for Adults

Tasks of separating for adults

Being able to identify your tasks helps you to separate them from the tasks your children face. It helps you distinguish between couple issues and parenting issues.

1. Acknowledging the loss

It is important to acknowledge and express sadness over the loss of your partner, as well as the end of hopes and dreams for the relationship. A loss that is not mourned can result in a preoccupation with your former partner's life.

2. Reclaiming yourself

This involves separating yourself from the relationship and establishing a new sense of self-identity. It is the move from "we" to "I." It helps to remember the strengths you had before the relationship. It also helps to reach out to trusted friends and family members. You may wish to take advantage of counseling to help sort out your feelings. You need to take care of yourself physically, as well as emotionally.

3. Resolving anger/resentment

Separation can bring on feelings that can affect you for years. Emotional flashbacks or bitter feelings can be stirred up when you see your former partner or hear about what they are doing. It is important to resolve anger and resentment in a healthy way in order to move on. When anger continues, the children can be harmed by being used as weapons.

4. Dealing with changes in your other relationships

There may be changes in the way you relate to friends you had as a couple and in your former partner's extended family.

5. Dealing with finances

It is likely that your finances are going to change upon separation. If necessary, seek financial counseling. You may have immediate concerns for how to deal with the loss of the additional income from the other person and you may need assistance to develop a different long-term financial plan.

6. Gaining new confidence, venturing forth again

This task involves finding the courage to try new relationships and new roles.

7. Rebuilding

This task builds upon the others. The goal is to create a new, sustained relationship or to have a satisfying life as a single person.

A time to plan where to go from here

Separation is a major change in your life. It can also be a time to plan where to go from here. With courage and determination, you can make this an opportunity for you and the children to learn about yourselves in a new way and to emerge stronger and more resilient than before.

Take a look at Worksheet #1, “Looking to the future: A self-assessment.” It starts on page 13. This is a tool that gives you an opportunity to review your life and plan your goals. You should plan to complete the worksheet in your own time.

It may help to know that you are not alone. In the United States, over 40 per cent of all families experience separation. See Worksheet #5 on page 62 for some of the ways other parents have learned to cope.

A Note on Anger

It is understandable that both parents experience anger. However, if at any time you feel physically threatened by your partner, it is important to ensure your own safety and the safety of the children. Consider contacting the National Domestic Violence Hotline for assistance at 1-800-799-7233 or 1-800-787-3224 (TTY).

Worksheet 1: Looking to the future: A self-assessment

This worksheet can help you get a clear idea of where you are in the process of separating. It can also help you plan your next steps and move forward.

Consider the following questions and think about rebuilding your life.

Who I was

How did I see myself in the relationship?

- Did I rely on my former partner to tell me who I was?
- Did I do too many things for their approval?

What have I learned from the relationship:

1.

2.

3.

4.

5.

Looking to the future: A self-assessment

Where I am now

Think about the stages of separating this chapter has described (shock, anger, transition and acceptance).

Then reflect upon your own reactions over the past week. Where would you place yourself within these stages?

Think about the tasks of separating, outlined on page 11.

Then reflect on where you are in the process of working through these tasks.

Where I am with:

Acknowledging the loss

Reclaiming myself

Resolving my anger/resentment

Dealing with changes in my other relationships

Dealing with my finances

Gaining new confidence, venturing forth again

Rebuilding

Looking to the future: A self-assessment

Think of some things that you can consciously choose to do in answer to the question: where do I go from here?

I can: _____

Who I wish to be

What are my goals, visions, dreams for the future?

What are my values?

How do I see myself growing?

Contract with myself

I will review this worksheet in ____ (weeks' / months' time) and compare where I am in my process of dealing with the stages of grief and the tasks of separating.

The Experience of Separating for Children

How will this affect my children?

One of the most difficult questions parents have when deciding to separate is, “How will this affect my children?”

This chapter provides information about the experience of separation from the child’s point of view. It suggests some strategies you may find useful to help your children through this time of difficult change.

What children often experience

Children often experience anger, sadness, rejection and guilt after parents separate. All of these emotions are confusing. They may also experience emotions such as relief, which they then feel guilty about.

Like adults, children experience stages of loss and grief as part of the separation process. They often experience these emotions in the following stages:

- Stage 1: Denial. My parents will get back together again.
- Stage 2: Anger. How can you do this to me? You let me down. If you really loved me, you would stay together.
- Stage 3: Bargaining. If I am really good, maybe you will get back together again.
- Stage 4: Depression. I feel empty inside and nothing can make it go away.
- Stage 5: Acceptance. My parents are not going to get back together. It’s okay that my friends know my parents aren’t together anymore.

As with adults, children may not go through these stages in any particular order and the time the process takes varies from child to child.

Children’s worst fears

- I did something wrong and that is why my parents are separating. It’s my fault.
- If my parents loved each other before and now they don’t, they might stop loving me, too.

What children most want to know

Research and the experience of professionals over the past 20 years tell us what children of separated parents most want to know:

- My parents will continue to love me.
- My parents will stop fighting.
- **Both** of my parents will be here in my life.
- If I can't have that, at least one of my parents will be here in my life.



Stage 1: Denial



Stage 2: Anger



Stage 3: Bargaining



Stage 4: Depression



Stage 5: Acceptance

The Experience of Separating for Children

How children often respond

In general:

- Pre-schoolers focus on security.
- Elementary school children show depression and/or anger.
- Junior high school students ask why, what is going on?
- High school students question the validity of relationships and commitment.

You can use the following checklists to help you understand what to expect from your child and their responses to your separation. You may wish to check off “Problem” or “No Problem” beside “What to watch for.”

A. Infants (0 to 18 months)

Issues

- consistency of caregivers, environment and routine
- emotional connection with caregiver
- nurturing and love

What to watch for

- sleeping changes
- eating changes
- clingy behavior/difficulty separating

Problem

No

Problem

What you can do to help

- maintain consistency in people and routines change routines gradually
- avoid angry expressions and emotional outbursts in front of the baby
- don't fight in front of the baby



Parenting after Separation

B. Toddlers (18 months to 3 years)

Issues

- consistency of caregivers, environment and routine
- fear absent parent has disappeared
- nurturing and love
- concern about security (who will take care of me?)

	<i>Problem</i>	<i>No Problem</i>
What to watch for		
• increased crying	<input type="radio"/>	<input type="radio"/>
• trouble getting to sleep/nightmares	<input type="radio"/>	<input type="radio"/>
• demanding to be fed by parent instead of feeding self	<input type="radio"/>	<input type="radio"/>
• changes in toilet habits	<input type="radio"/>	<input type="radio"/>
• increased anger (such as temper tantrums and hitting)	<input type="radio"/>	<input type="radio"/>
• clinging to adults or security objects	<input type="radio"/>	<input type="radio"/>

What you can do to help

- give love and affection
- provide verbal assurance (both parents say, “I love you”)
- maintain consistency of people and routines
- reassure the child they will be cared for
- provide a clear and simple explanation of changes
- allow the child to express feelings through words or play
- avoid angry expressions or emotional outbursts in front of the child
- avoid fighting in front of the child

C. Pre-schoolers (3 to 5 years)

Issues

- fear of being abandoned/rejected
- doubts they are lovable (did my parents leave because I’m not good enough?)
- blame themselves for what happened (did I cause this because I was bad?)

<i>Problem</i>	<i>No Problem</i>	What to watch for
<input type="radio"/>	<input type="radio"/>	• going back to younger sleeping/eating/talking behavior
<input type="radio"/>	<input type="radio"/>	• clingy behavior/difficulty with separation
<input type="radio"/>	<input type="radio"/>	• increased anger
<input type="radio"/>	<input type="radio"/>	• increased passivity (over-compliance)

The Experience of Separating for Children

What you can do to help

- give love and affection
- provide verbal assurance (both parents say, “I love you”)
- maintain consistency of people and routines
- reassure the child they will be cared for and that the separation is not their fault
- provide a clear and simple explanation of changes that are to occur in the child’s new life
- provide opportunities for the child to express feelings through words or play
- avoid angry expressions or emotional outbursts in front of the child
- avoid fighting in front of the child

D. Young school-age children (6 to 8 years)

Issues

- longing for absent parent
- dreaming about parents getting back together
- feeling the need to take the side of one parent
- concern about parent’s well-being
- guilt that they are responsible for the separation

What to watch for

	<i>Problem</i>	<i>No Problem</i>
• sadness, grief, crying, sobbing, withdrawal	<input type="radio"/>	<input type="radio"/>
• fear of losing relationship with parent	<input type="radio"/>	<input type="radio"/>
• fear of losing order in their lives	<input type="radio"/>	<input type="radio"/>
• feelings of being deprived or left out	<input type="radio"/>	<input type="radio"/>
• anger and increased aggression	<input type="radio"/>	<input type="radio"/>
• difficulty playing and having fun	<input type="radio"/>	<input type="radio"/>

What you can do to help

- assure them with words that their parents will continue to take care of them
- assure them they will continue to see both parents (if this is the case)
- give the child permission to love the other parent
- don’t criticize the other parent in front of the child
- don’t put the child “in the middle” (see “Games some parents play,” page 30)

E. Older school-age children (9 to 12 years)

Issues

- may see things as black and white: one parent is right, the other is wrong
- may feel shame or embarrassment about parents' separation
- may feel the separation threatens their own identity
- may feel need to overcome a sense of powerlessness
- may feel loyalty conflicts

Problem No

- | | Problem | No | What to watch for |
|-----------------------|-----------------------|-----------------------|--|
| <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | • physical complaints (headache, fatigue, stomach ache) |
| <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | • intense anger, especially at parent they see as to blame |
| <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | • taking one parent's side against the other |
| <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | • difficulty with peers |
| <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | • difficulty playing and having fun |

What you can do to help

- listen to child's feelings and complaints without taking sides or judging
- don't criticize the other parent to the child
- encourage the child to see good in the other parent
- avoid fighting in front of the child
- say positive things about the other parent
- don't pressure the child to take sides or make the child feel like they have to take sides
- support the child's contact with the other parent (if this is possible and safe to do so)

F. Teens (13 to 18 years)

Issues

- upset that parents may be unable to provide needed support and limits
- already difficult relationship with parent may worsen
- premature or increased independence
- may be asked to assume more responsibilities at home that pull them away from peers

	Problem	No
What to watch for		
• school problems, such as difficulty concentrating, fatigue	<input type="radio"/>	<input type="radio"/>
• acting out emotional distress through sex, drugs, crime	<input type="radio"/>	<input type="radio"/>
• internalizing emotional distress: depression	<input type="radio"/>	<input type="radio"/>
• anxiety over close relationships	<input type="radio"/>	<input type="radio"/>
• grief over loss of family and childhood	<input type="radio"/>	<input type="radio"/>
• becoming distant and aloof from family	<input type="radio"/>	<input type="radio"/>

The Experience of Separating for Children

What you can do to help

- provide opportunities for teens to share feelings, concerns, complaints without judging them
- avoid relying on teens for emotional support, remember you are the parent and they are the child
- don't pressure teens to choose sides
- say positive things about the other parent
- allow teens to have appropriate friendship and peer activities

Tell your children you love them, over and over again.

At the end of this chapter, see Worksheet #2, "Focusing on my child." Use the worksheet to think about how your children are adjusting and how you can assist them if they are having problems.

What children need to hear

Telling the children may be the most painful part of the entire separation process.

Here are some statements you may find useful. These are statements that parents might make together or separately. If you are speaking to your children without the other parent, you can adapt the statements to fit your discussion with the children.

Some of these statements may not be appropriate if you have concerns about your safety.

- We will continue to take care of you and provide for you and keep you safe.
- While our feelings for each other have changed, the special relationship we have with you as our child will go on forever.
- Your relationship with your sisters and brothers, grandparents and other relatives will continue. Sometimes, though, these relationships change.
- You did not cause the separation. Nobody thinks you did.
- The separation is not your fault.
- The separation was not an easy decision to make. We put a lot of effort into making our relationship work, but we have decided that we can no longer live together.
- When we married/began living together, we loved each other and believed things would work out.
- We will honor your wishes, but we will decide where you will live. You don't have to make that decision.
- We are not going to ask you to take sides.
- You may wish we'd get back together again. Children often wish for that and it's a natural thing to want, but it's not going to happen. We have separated.
- We are very sorry for the hurt this decision is causing you.
- We will never stop loving you. Never.

What children do not need to hear

- The separation is the other parent's fault. Don't give children the message that you are the good one and the other parent is the bad one, even if you feel that way.
- Details of what went wrong. Children do not need to be informed about what happened in the relationship, such as an affair, money problems, personality conflict or other problems in your relationship.
- The other parent is selfish/unkind/incompetent/foolish. (You may have negative feelings about the other parent, but expressing these feelings to the children puts them in an emotional conflict.)

How to tell the children

The separation itself is not as upsetting to children as the conflict and confusion that may surround it. Tell the children only when you have made clear plans about what will be happening to them.

- Tell your children together, if you can, and if it is safe to do so. It may help to tell your children at the same time, rather than separately, so that you can provide support to the children together and they can help each other.
- Pick a time and place where there will be no distractions or interruptions and you have time to answer the children's questions.
- Discuss your future living arrangements. Tell them they will be loved in two homes now, if that is going to be the arrangement.
- Address their particular needs such as friends, activities, toys and school.
- Allow your children to show grief and invite them to talk it out, draw it out, write it out or cry it out.

Children hear criticism of the other parent as criticism of half of who they are.

The Experience of Separating for Children

How parents can help children deal with the separation

1. Offer structure

Stick to a daily routine with your child. Make changes slowly and with much discussion and reassurance. Encourage your child to play with friends and have as much a normal life as possible. Try to keep your child's environment as stable as possible. It is not a good idea to make too many changes at one time.

Let them know it's okay to love both of you. They do not have to choose.

Example: Your child may be getting used to having only one parent at home every night. Moving into a new home or going to a new school may be too much for them at the same time.

Maintain rituals around birthdays, holidays and other important events. This helps to give a sense of security and helps your children plan and look forward to family events.

Help children feel free to ask questions. Tell them about changes well ahead of time. Children want to know what is going on in their lives. Encourage your children to be involved in school activities, sports, after-school programs or other activities.

Talk to your children honestly about changes or moves that will affect them, before they happen.

2. Encourage children to express their feelings

During this time, children may feel sad, scared and lonely. Helping them express their feelings allows children to know that it's okay to have feelings. "It makes sense to me that you would be feeling scared. There are a lot of changes taking place." Then tell them you will always be there to love them and take care of them. When you acknowledge your child's feelings, you are letting them know that you realize how they are feeling.

3. Allow time for children to grieve

Like you, children are grieving the loss of the family as they have known it. Many of their feelings of anger and confusion are the same feelings you are experiencing yourself.

In their grief, children may express feelings of anger towards you. Try not to take them personally. Your child is trying to make sense of the separation. When your child is upset, you could try to use "mirroring." Mirroring is simply stating back what your child has just said. For example, "I hate you Mommy. You made Daddy leave." You can mirror this back: "Right now you feel like you hate me because you think I made Daddy leave." Mirroring can help a child to feel heard.

4. *Tell them you love them and it's not their fault*

Your children need reassurance now more than ever. Children need people to tell them they love them no matter what happens. Explain to them that, while the love adults have for one another can change, the love a parent has for a child can never change. Parent/child love is different from parent/parent love because a parent loves a child forever.

Tell your child that the separation was not their fault. Say that it is okay to feel sad about the changes and miss the other parent.

Avoid making your children take sides. Some children may feel guilty for having a good time with the other parent. Reassure them it is okay to love both parents.

5. *Set limits on their behavior*

Children need limits. They need a stable, predictable home life, with clear rules and a parent they can depend on to be consistent about the limits. Sometimes they test these limits.

Give your children duties and responsibilities. Children who have chores appropriate to their ages and abilities are better able to adjust to change. Sometimes, parents do not want to have their children do chores because the children feel bad enough already about the separation. However, in maintaining limits you are helping them feel secure.

6. *Protect children from witnessing arguments and violence between you and the other parent*

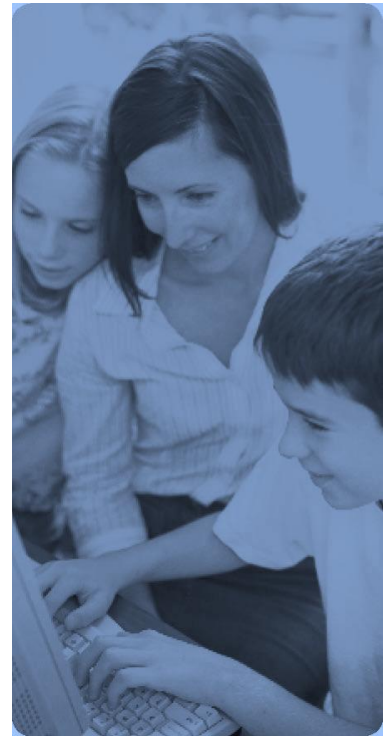
It is important that you protect your children from witnessing arguments or violence between you and your former partner. If you are experiencing strong feelings about the separation, you may wish to find a support group or a counselor who can help you work through your feelings away from your children.

When to get professional help for your children

You should consider seeking professional help when:

- A child's distress and problems are constant and chronic.
- A child's symptoms get worse rather than better over time.
- You feel unable to cope with your child.

To get more help, see links to resources on the California courts self help website at www.courts.ca.gov/selfhelp.htm or the Resources section of Families Change: <http://parents.familieschange.ca.gov/dealing-with-change/resources>

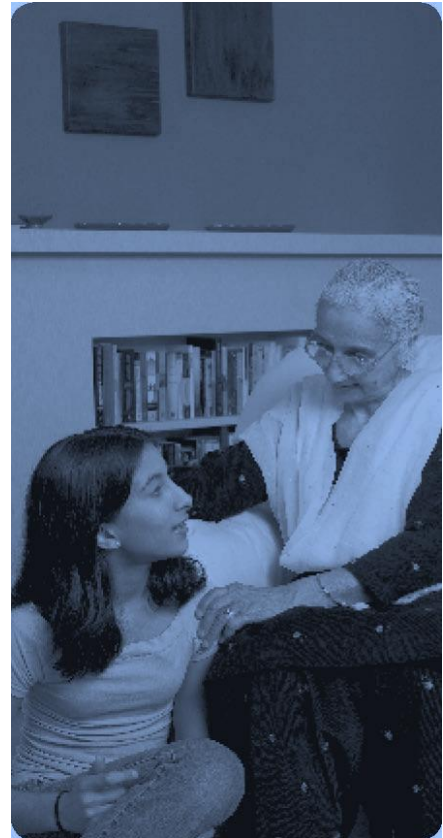


The Experience of Separating for Children

Checklist: Best help for children of any age

We suggest you use a colored pen to check the things you are already doing. This will show you the many ways in which you are helping your children adjust. Use a different colored pen to underline the things you want to work on some more.

- I reassure my children that this separation is not their fault.
- I do not talk negatively, or with anger, about the other parent to my children.
- If I cannot talk positively, I limit what I say about the other parent.
- I try to avoid arguing in front of my children.
- I try to agree with the other parent about how to discipline the children, at least in the presence of the children.
- I am making special efforts to spend time alone with each child.
- I tell my children that it is okay to love the other parent.
 - I do not compare my child to the other parent, even when the similarities are striking and painful to observe.
- I do not blame my children's anxieties, fears and problems at this difficult time on the other parent – either to the child or the other parent.
- I am trying to help my children not to feel shame about the separation or divorce.
- I understand that separation or divorce does not make me a failure.
- I have let my children's teachers know about the separation so they can help the children.
- I am not making too many changes in my children's life at once.
- I am dividing up the family chores so that they get done despite the absence of the other parent.
- I do not ask my children who they want to live with or love more – I do not ask either question directly or indirectly.
- I am encouraging my children to resume their normal activities.
- I understand my children's hope that we will get back together without offering false hopes or angry denials.
- I am trying to maintain as much emotional control as I can so my children will not feel they have to take on adult roles that are beyond them.
- I am not turning my child into my adult confidante.



You may wish to photocopy the “Tips for children” on the following page and share them with your children.

Tips for children: Surviving your parents' separation

When parents separate, children can have a difficult time. Here are some tips from children who have been through it.

1. ***It is not your fault.*** You should not feel guilty when your parents argue. It's not up to you to get them to stop.
2. ***Don't try to solve your parents' problems. You don't have to*** take sides. If one parent asks your opinion or ask about the other parent, say, "I think I'd better stay out of this."
3. If you can, ***leave the room when your parents argue.*** Do something that helps take your mind off it. Call up a friend, put on a CD or DVD or get out of the house.
4. ***These experiences are really hard on everyone.*** You're not alone in feeling the way you do.
5. ***Don't keep your feelings inside. It can help if you find*** someone you can trust and talk to them: your school teacher, counselor, family doctor or a family member you trust.
6. ***Tell your parents what you need.***

Examples:

- Please spend some time alone with me, even five minutes of my very own time, not related to school, cleaning my room or anything else.
- Don't get angry when I say I want to live with my other parent. Usually when I say it, I am angry, hurt and scared and I really miss my other parent.
- Let me tell you what I want about my visits with the other parent. Sometimes I'm afraid I'll hurt your feelings if I say I had a good time.
- Please don't call me the "man" or the "mother" of the house. I need to be a child.
- Please trust me if sometimes I don't want to talk. You may be ready to talk when I'm not.



Remember: Life at home won't always be like this. Things will get better. For more information, you can also check out the Families Change website at: www.familieschange.ca.gov

Worksheet 2: Focusing on my child

You may wish to use this worksheet after you have completed the checklists (*Problem/No Problem*) in the section “How children often respond,” on pages 18 to 22. If you have identified problems, you can get help from the Resources on page 61.

1. *How well is my child handling the issues that are listed for their age group?*

2. *If my child could change one thing about the situation (apart from getting me back with my former partner), what would it be?*

3. *I have identified the following possible problem areas:*

a. _____

b. _____

c. _____

I plan to help my child with these problems by:

If I need more help to deal with these problems, I will ask for help from:

a. _____

b. _____

c. _____

Contract with myself

I will review this worksheet in (____weeks’/months’ time) and make a note of what I have done to deal with problems I have identified.

You and the Other Parent

This chapter is about moving away from an intimate relationship with the other parent to a more “businesslike” relationship, which is focused on the children. You may have times when you wish the other parent would simply disappear from your life or that you could erase your last years together. But when you have children, separation ends only the relationship with the other parent—it does not end the parenting.

Children benefit from a respectful and co-operative relationship between both parents. However, as the relationship breaks down, parents may find their former feelings of love and trust have changed into anger and resentment. Parents who separate often struggle with how to act around each other. Some try to avoid dealing with their anger by not speaking and others make negative comments when they do speak.

If safety is not an issue for you, practicing good communication skills can help. The first step is to begin by rethinking your role. You need to separate your former role as partner from your ongoing role as parent. This takes effort, but you can do it.

At one time, you and the other parent had an intimate relationship.

An *intimate relationship* includes:

- many unwritten and unspoken expectations;
- informal meetings;
- a lot of emotional and personal involvement;
- a sense of trust;
- open disclosure and sharing of information.



A *businesslike relationship* includes:

- no expectations from the other parent unless agreed upon or written down;
- formal courtesies, structured interactions and meetings with specific agendas focused on the children;
- little personal involvement;
- limited disclosure of information unless relevant.

After the separation, you need to be able to communicate about the children without being stuck in old feelings for one another. It may feel strange at first to only talk about issues affecting the children but, in time, it will feel more natural.

Games some parents play

Sometimes parents play games that put children in the middle of their disputes. Most parents do not mean to do this, but the children can be hurt by these games.

Games are often a result of unresolved feelings of anger and hurt about ending the relationship. It is important to deal with your emotions and to make the changes to a new, businesslike way of communicating with the other parent.

Here are some common games that parents play:

1. The nasty game

Threatening to get what you want. “If you don’t pay child support on time, I won’t let you see the children.”

When parents behave in this manner, they are focusing on their relationship with the other parent. The focus needs to be on the children’s needs, not the feelings of the parents.

2. The messenger

Telling the children to take messages to the other parent about issues that should be discussed between parents. “Tell your father to get the support payments to me on time!”

Being a messenger is a painful burden for children. Parents need to communicate directly with each other and not through the child.

3. The set-up

Trying to interfere with the time the other parent spends with the child.

Example: Dad telephones son and tells him he has tickets to a game, but it’s not happening on the weekend of their visit. Dad tells son to ask his mother. Mom, in turn, says no. The child is then angry with Mom for not allowing the treat.

4. I spy

Attempting to obtain information about the other parent. “Who is your father seeing?” “Who does your mother have over to the house?”

Children do not like being used or being asked to break the trust of a parent. They do not want to see the anger of a parent upset with the information they are asked to give.

5. Don’t worry/I wish

Dreaming about what things would be like if the family were back together. A child may tell a parent how nice it would be to all be back together. The parent agrees that would be good. Doing this may give the child false hopes of getting back together.

You and the Other Parent

6. Extravagant parent

Buying expensive gifts or taking the children on extravagant outings. This can make the other parent feel inadequate because they cannot afford such purchases. Often, the parent who buys the gifts cannot afford it either, but feels it is the only way to connect with the children.

Children may come to expect special gifts, treats and privileges on an ongoing basis. They may not develop a realistic relationship with the parent or a realistic view of family life.

7. Party pooper

Criticizing the child's visit with the other parent. For example, the child has just returned from an outing to the zoo. The parent who didn't go criticizes everything they did. The child ends up feeling bad about the day.

8. Put downs

Criticizing or putting down the other parent in front of the children. Parents may do this to relieve pent-up anger or because they feel they can only win the child's affection by saying negative things about the other parent.

Because children experience themselves as made up of both their parents, they feel sad and as if something is wrong with them if they are not allowed to love both parents. Remember that a putdown directed at the other parent affects the child and may cause them to feel pain and low self-esteem.

Dealing with the other parent, where safety issues are not involved

1. Accept the idea that, while the relationship is ending, you will be parents forever. The family is not ending—it is being reorganized.
2. While you no longer share together as partners do, you do share love and mutual concern for your children. This is the new basis of your relationship.
3. Separate the children's needs and concerns from your own. Your child does not experience their other parent in the way you do.
4. Create new boundaries in the relationship with the other parent. Do not use old patterns. Create new ones.
5. Be respectful with the other parent and remember this is a new business relationship in raising the children and you are no longer together.
6. Focus on the strengths in your relationship—what you have done well together as parents—and build on those strengths.

See Worksheet #3 on page 34, "Practicing positive communication skills." This worksheet can help you consider how to complete the above tasks successfully.

Tips on how to be businesslike when communicating with the other parent

Check off the tips you most want to work on.

- Keep all talk with your child's other parent brief, focused on child-related issues and businesslike. If you cannot talk to each other, communicate in writing, by e-mail, or use text messaging.
- Be clear and specific about the issue or concern you have.
- Never communicate with the other parent through your child.
- Do not let relationship issues enter into the discussion. If the other parent cannot keep old relationship disagreements out of the conversation, suggest resuming the conversation later.
- Do not fuel the other parent's anger.
- Remain calm and don't react.
- Have possible solutions ready.
- Be courteous and respectful of the other parent even if you feel they may not deserve it.
- Focus on the best interests of your children and their needs when you are discussing child-rearing problems and strategies with the other parent.
- Avoid blaming yourself or the other parent for what happened in the past. Stay focused on the present.
- Look for opportunities to express appreciation to the other parent.
- Act like a guest when in the other parent's home. (It is very confusing to the children if you don't.)

Pitfalls to watch for in informal negotiations

Blaming:

It's all your fault.

Discounting:

That's ridiculous. It makes no sense.

Awfulizing:

I'll live in poverty forever.

Judging:

That is selfish of you.

Psychologizing:

You don't really want the children.

You just want to get even with me.

Ultimatums:

Either you do or I won't.

Shaming:

You were the one who had the affair and broke up the family.

Lecturing:

It's going to be done this way because...

Threatening:

We'll just let the judge decide.

Being a victim:

I have always done everything and now I have nothing.

Cutting off:

Tell your lawyer to call my lawyer.

Shoulds:

You should want to do more.

Labeling:

You're such a jerk.

Staying negative:

Parent A:

You are overprotective with the children.

Parent B:

At least I don't scare them half to death.

You and the Other Parent

Negotiating informally with the other parent

Sometimes, you can resolve differences with the other parent by negotiating informally. You may be able to reach a reasonable agreement that is in the best interests of the children and that you can both accept.

If you feel threatened or unsafe by the other parent, do not negotiate on your own. Talk to someone you trust about options for negotiating safely. Consult a lawyer, counselor or mediator.

Guidelines for informal negotiation

1. Before you get together, gather all your information and facts. Be clear about what child-related issues you want to discuss.
2. Choose a neutral place and a time when you can talk without interruptions.
3. Decide together on rules for how you will talk together respectfully. For example, you may both agree that you will not discuss who is to blame for the separation and will not interrupt each other or raise your voices.
4. Speak clearly about what it is you want to negotiate. Stay focused on the topic. Try not to bring up past faults and problems.
5. Ask the other person for their point of view. Listen carefully to what the other person has to say. If you don't understand, ask for more information.
5. Look at solutions together and present your solutions as suggestions, rather than demands.
6. Make sure both of you agree on the solution you have arrived at. Specify who will do what, when and where. For example, if the agreement is about when the other parent will spend time with the children, you may need to have a written plan about how and where the transfer of the children will take place and what time the children will go and return.
7. Determine if you need to meet again to review how the agreement is working.
8. At the end of the meeting, give positive comments such as, "I feel better about this" and "I'm glad we were able to work it out together."

Worksheet 3: Practicing Positive Communication Skills

Practice your positive communication skills. In difficult situations, you can use these skills to handle conflict responsibly.

1. *Here are two sample conflict situations. Compare the positive and negative responses.*

Situation #1

When the other parent has the children, they eat all sorts of sweet treats and stay up far too late.

- **Negative response:**
Tell the children that the other parent is a lousy parent.
- **Positive response:**
Deal directly with the other parent about their behavior. In a calm voice, tell them that the children need to eat balanced meals and go to bed at their regular times. Discuss possible solutions to the problem, such as planning meals and shopping ahead.

Situation #2

You discover the other parent has been asking your 12-year-old son for information about someone you have been dating.

- **Negative response:**
Tell your son to get some “dirt” on the other parent’s social life.
- **Positive response:**
Tell your son that next time he can ask his other parent not to put him in this situation. Listen to how your son may be feeling. Speak with the other parent directly about the problem, if it is safe to do so.

2. *Try providing positive responses to this conflict situation.*

Maria, Joe and daughter Lee

Maria and Joe separated 18 months ago. They have a daughter, Lee. According to their parenting plan, Lee spends time with Joe every weekend. Yesterday, Joe brought Lee back four hours late from a weekend visit.

Joe claims they were late because they got stuck in traffic on the freeway. But Lee has told Maria that they were late because Joe’s new girlfriend came over and made dinner.

Now Maria is on the phone at the kitchen table. Maria is crying and yelling over the phone at Joe, calling him a liar.

Lee is sitting at the table, listening to her mother.

If you were Maria, how would you respond to Joe's behavior and Lee's feelings using positive communication skills?

3. Think of some examples of conflict situations between you and the other parent.

List some positive responses to the problem:

Conflict Situations

Positive Responses

Conflict Situations	Positive Responses
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Resolving Legal Issues

When you separate, you have some all-important decisions to make:

- Who will the children live with?
- Who will make decisions about the child's education, religion and health issues?
- If the children don't live with me, when will I see them and what role will I play in their lives?
- What arrangements do we make about child support?

In the best interest of the child

Decisions about the children must always be made on the basis of one very important legal principle:

What is in the best interest of the child?

In most cases, it is in the best interest of the child to have a close, stable and ongoing relationship with both parents whenever possible. Sometimes, this is not possible. It may not be in the best interest of the child, especially in cases where there is violence or abuse against a parent and/or children.

Children often feel that the breakup is their fault. When only one of the parents is involved in the child's life after separation, the child's self-image may suffer.

Children tend to believe that the other parent isn't involved because they are no longer interested in them. Children often feel this must mean they are not good, important or worthy of attention and love.

When it is possible for both parents to maintain a close relationship with their child, the child benefits greatly. For example, having both parents involved:

- Improves the child's emotional well-being and recovery from the separation.
- Aids in the child's healthy emotional development.
- Helps a child from feeling divided loyalties.
- Lessens any guilt they may feel (why doesn't the other parent want to see me?).
- Helps maintain parental authority for the child.
- Promotes parental willingness to provide financial support for the child.
- Gives the child an opportunity to develop an extended family identity.
- Demonstrates that parents can put aside personal differences enough to unite around parenting.

To decide what is best for the child, the court will consider:

- The age of the child.
- The health of the child.
- The emotional ties between the parents and the child.
- The ability of the parents to care for the child.
- Any history of family violence or substance abuse, and
- The child's ties to school, home, and his or her community.

Parenting arrangements

When the law talks about who will take care of a child after separation, and how that care will be organized, it uses the terms *custody* and *visitation* or *parenting time*. When the law talks about paying for the child's needs, it refers to *child support* and the Child Support Guidelines.

Custody and visitation are legal terms for parenting arrangements. More and more often, parents do not sit down to discuss custody and visitation. Instead they ask, what are the best arrangements we can make to parent our children?



Physical Custody

When parents live together, each parent has custody of the child. When parents separate, the parent who lives with the child has custody of the child. That parent has the responsibility to care for the child on a day-to-day basis.

A parent who is separated can have sole or primary custody or joint custody. Under *sole or primary custody*, the child lives with one parent most of the time and usually visits the other parent. Sometimes the child may spend a little more time with one parent than the other because it is too hard to split the time exactly in half. When one parent has the child much more than half of the time, then that parent is sometimes called the “primary custodial parent.”

Under *joint custody* the child lives with both parents. The child may live one week with the mother and one week with the father or may have primary residence with either parent. Joint custody allows input from both parents as to how the child should be raised.

Sometimes, a judge gives parents joint legal custody, but not joint physical custody. This means that both parents share the responsibility for making important decisions in the child's life, but the child lives with one parent most of the time. The parent who does not have physical custody usually has visitation or parenting time with the child.

Some parents see custody as a term of ownership: for example, “I have custody of our children and you don't.” The suggestion is that the parent who does not have custody is not as good a parent. This type of thinking may stand in the way of doing what is best for the child.

Resolving Legal Issues

Legal Custody

This refers to the major decisions, such as deciding about such things as the child's education, religious upbringing, medical/dental care and managing the child's property (if they have any). There are two types of legal custody: joint and sole.

Joint legal custody is where *both* parents share the right and responsibility to make important decisions about the health, education, and welfare of the children.

Sole legal custody is where only *one* parent has the right and responsibility to make the important decisions about the health, education, and welfare of the children.

Parents with legal custody make decisions or choices about their children's:

- School or child care
- Religious activities or institutions
- Psychiatric, psychological, or other mental health counseling or therapy needs
- Doctor, dentist, orthodontist, or other health professional (except in emergency situations)
- Sports, summer camp, vacation, or extracurricular activities
- Travel
- Residence (where the children will live)

Parents who share legal custody both have the right to make decisions about these aspects of their children's lives, but they do not have to agree on every decision. Either parent can make a decision alone. But to avoid having problems and ending up back in court, both parents should communicate with each other and cooperate in making decisions together.

Visitation or Parenting Time

Visitation (also called "parenting time") is the plan for how parents will share time with their children. It is the child's right to spend time with the parent they do not live with. It is also the other parent's right to spend time with the child. Visitation orders are varied, depending on the best interests of the children, the situation of the parents, and other factors.

- **Visitation according to a schedule:** Generally, it helps the parents and children to have detailed visitation plans to prevent conflicts and confusion, so parents and courts often come up with a visitation schedule detailing the dates and times that the children will be with each parent. Visitation schedules can include holidays, special occasions (like birthdays, mother's day, father's day, and other important dates for the family), and vacations.

Parenting after Separation

- **Reasonable visitation:** A reasonable visitation order does not necessarily have details as to when the children will be with each parent. Usually, these orders are open-ended and allow the parents to work it out between them. This type of visitation plan can work if parents get along very well and can be flexible and communicate well with one another. But if there are ever disagreements or misunderstandings, this kind of an open schedule can cause issues between the parents, and the children may suffer as a result.
- **Scheduled visitation or parenting time:** A schedule allows parents to plan when the children will be with each of the parents and helps the children understand the plan. It usually considers the children's school schedule and outside activities as well as holidays and vacations.
- **Supervised visitation:** This is used when the children's safety and well-being require that visits be supervised by another adult or a professional agency. Supervised visitation is sometimes also used in cases where a child and a parent need time to become more familiar with each other, like if a parent has not seen the child in a long time and they need to slowly get to know each other again. The goal of the supervised visit is to keep everyone safe.
- **No visitation:** This option is used when visiting with the parent, even with supervision, would be physically or emotionally harmful to the children. In these cases, it is not in the best interest of the children for the parent to have any contact with the children.



Other adults who have a relationship with the child may also have visitation or parenting time. For example, a grandparent could have visitation rights.

Compliance with parenting plans

It is important to respect and follow agreements or orders for parenting time. Denying another parent time with the child is wrongful, unless specific circumstances apply (like the child would be at risk of family violence; the parent is impaired by drugs or alcohol during their time with the child; the child is ill and has a doctor's note; the parent cancelled their time or has repeatedly not spent their scheduled time during the past year without reasonable excuse.)

If you wrongfully prevent the other parent from spending time with the child, there are remedies the court may order. For example, the court may order compensatory time or require you to attend mediation or co-parenting counseling, reimburse the other parent for expenses they paid or change the parenting arrangements.

Resolving Legal Issues

There are also consequences for repeatedly failing to spend time with your child that has been ordered or agreed to. Not only is this damaging to the children, but it also creates stress and challenges for the other parent who has to deal with unexpected child care or cancel their plans. The court may order you to attend mediation or co-parenting counseling, or reimburse the other parent for child care or travel expenses, or change the parenting arrangements.

Sometimes, the parent who has the custody will use it as a weapon. “If you don’t get those child support payments in on time, I won’t let you see the children!”

When visits stop, the child may feel that the other parent has lost interest because the child is bad or unimportant. The child may feel guilty and their self-image may be damaged.

From a legal point of view, there is *no* link between the child’s right to see both parents and the paying parent’s obligation to make regular child support payments.

Child support

Parents have a legal duty to provide for and support their child. When parents separate, each parent still has the legal duty to financially support the child. This is called child support. Child support is the amount of money that a court orders a parent or both parents to pay every month to help pay for the support of the child (or children) and the child’s living expenses. **The parent who has the children most of the time will usually receive child support.** Child support pays for some of the child’s costs. The parent with whom the child lives is expected to pay the rest.

Every county has a family law facilitator who will help you for free to:

- Prepare court forms and legal papers for child support;
- Explain court procedures for getting and changing child support orders;
- Calculate child support using the guideline, if you have the necessary financial information; and
- Explain how the court makes child support decisions.

Every county also has a local child support agency to help you get an order for child support, change the amount of support, and collect child support. To learn more about child support and find the family law facilitator and local child support agency in your county, go to www.courts.ca.gov/selfhelp-support.htm.

Children in California are entitled to support if they are:

- under 18; or
- age 19 if the child is still in high school full-time and not self-supporting. Disabled adult children may be entitled to be supported by both parents beyond this point.

This means that child support is the right of the child, not the parent who has custody of the child.

Child Support Guidelines

California law concerning child support is known as the Child Support Guideline. The guideline helps set a fair amount of support for the children. To find out more about the child support guideline, go to: <http://www.childsup.ca.gov/Resources/CalculateChildSupport.aspx> or <http://www.courts.ca.gov/selfhelp-support.htm>

How does the court determine the amount of child support?

The California Family Code (sections 4050-4076) establishes the statewide guideline, or formula, for calculating child support. The amount of child support ordered by the court depends on:

- Number of children
- Percentage of time each parent shares with the children
- Income, earnings, or earning capacity of each parent
- Tax filing status
- Support of children from other relationships
- Health insurance expenses
- Mandatory union dues
- Mandatory retirement contributions
- Child-care and uninsured health expenses

The court will order that health insurance be maintained if available at no or reasonable cost. The court will also order, as additional child support, reasonable uninsured health-care costs for the child and child-care costs needed for the parent to work or get training or education for employment. The child support order may also include the cost of travel for visitation, children's educational expenses, and other special needs.

You can estimate the amount of child support that may be ordered in your case by using the California Guideline Child Support Calculator by visiting www.cse.ca.gov/ChildSupport/cse/guidelineCalculator.

The court commissioner or family law judge has the final authority to determine the amount of a child support order. This calculator provides only an estimate and is not a guarantee of the amount of child support that will be ordered. Other factors may affect the amount of child support awarded, such as the children's educational or other special needs.

The California Guideline Child Support Calculator takes into account the parents' timeshare arrangements. The amount of time per month that each parent spends with the children is turned into a percentage, which is entered into the Calculator.

Resolving Legal Issues

When can a child support order amount be changed?

The court may order that a higher or lower amount of child support be paid if either parent's situation has changed since the child support order was made. If you want to change the amount of support you must ask the court to change the support order. The court can only change the support order back to the date you filed the legal papers with the court to ask for a change in support.

Child support changes often occur when:

- Either parent loses his or her job
- Either parent gets a job after being unemployed
- Either parent has a change (increase or decrease) in income
- The amount of time that each parent spends with the child changes

Once you ask the court to modify the amount of child support, the court will make its decision based on the changed circumstances that are the basis for the request. The child support amount could go either up or down. If you are not sure whether the change in circumstances will result in an increase or decrease, you can ask the family law facilitator in your county to help calculate the estimates for you before you file papers to go to court.

IMPORTANT! If you are the parent paying child support, you will still owe the full amount of support in your current order until you get the order changed – even if your situation has changed. The court cannot order a change in support to a date earlier than the date that you file your papers asking for the change. For example, if you lose your job today, but you do not file papers asking the court to change your child support order until 3 months from now, the court will not be able to change the support back to the date you lost your job. you will still owe child support from today until the date that the court decides the child support order should be changed, even though you were not working. Also, if you owe that amount, but are unable to pay it, you will still owe interest (at a rate of 10 percent per year) on any unpaid balance.

For step by step instructions on how to change a child support order or respond to the other parent's request to change the order, see www.courts.ca.gov/selfhelp-support.htm

Developing a parenting plan

A parenting plan, also called a "custody and visitation agreement" or a "time-share plan," is the written agreement about how much time the child will spend with each parent, and how the parents will make decisions about the child's welfare and education.

For example, a parenting plan may describe:

- how you will make decisions about the children;
- how you will share information with the other parent;
- how each parent will spend time with the children; and how you will deal with other parenting issues.

With a written plan, you and your children will know what to expect and will have fewer conflicts about shared parenting time.

Your parenting plan becomes a court order after it is signed by both of you, signed by the judge, and filed with the court. Make a parenting plan that is in the best interest of your children. When both parents are active in their children's lives and do not fight over custody and visitation schedules, the children will usually do much better. Change can be hard for children.

When thinking about a parenting plan, here are some things for you to consider:

- Week-to-week time arrangements
 - Give your children a sense of security and a reliable routine by providing an overall schedule and plan for the children's transition between the parents' homes.
- Time arrangements for holidays and special days
 - Use a calendar to keep track of school vacations and parents' vacations with and without children.
- Healthcare decisions
 - Meet your children's basic needs for a healthy diet, good medical care, and enough rest.
 - Plan how to deal with emergency medical treatment, manner of informing the other parent, and check-ups (medical and dental.)

Resolving Legal Issues

- Education decisions

Consult with the other parent about attendance at parent-teacher conferences and school events.

Other education decisions to consider are access to school records or handling a change in school, special educational needs, or tutoring.

- Religion and cultural decisions

Discuss the children's religious education and attendance at services.

Specify which cultural events and activities the child will attend.

- Grandparents and extended family

Discuss how to arrange visits and involvement with the children.

- Resolving disagreements about/changes to the parenting plan

Describe how to deal with disagreements;

How to change arrangements as children's and parents' circumstances change and

What happens if one parent wants to relocate geographically?

Overall, the goal of the parenting plan is to meet your children's basic needs for: love, protection, and guidance. When writing your plan, consider your children's ages, personalities, experiences, and abilities. Every child is different. Adjust your plan to your children NOT your children to your plan. Give your plan enough detail so it is easy to understand and enforce.

Remember to also be flexible. For example, if a child is not feeling well when it is time to go to the other parent's house, think about what would be best for your child. Clearly, the age of the child and the seriousness of the illness need to be taken into account. Also, the distance between the two homes will be a major factor in decision-making. Some parents use the standard that if the child is well enough to go to school, he or she is well enough to move from one home to another.

What Should Be in Your Parenting Plan

Parenting plans can be general or specific and can have restrictions. It depends on the court order and what the parents agree to. A good way to learn about what should be in your parenting plan is to look at the court forms for custody and visitation, like the *Child Custody and Visitation Order Attachment* (Form FL-341) and the *Child Custody and Visitation Application Attachment* (Form FL-311) which can be found at the Judicial Council website at www.court.ca.gov.

These forms can also help you when you think about your parenting plan:

- *Supervised Visitation Order* (Form FL-341(A))
- *Child Abduction Prevention Order Attachment* (Form FL-341(B))
- *Children's Holiday Schedule Attachment* (Form FL-341(C))
- *Additional Provisions — Physical Custody Attachment* (Form FL-341(D))
- *Joint Legal Custody Attachment* (Form FL-341(E))

These forms talk about plans that include weekdays, weekends, holidays, vacations, cost of transportation for visitation, and restrictions on traveling or moving with the children.

In general, make sure your parenting plan deals with:

- “Physical custody,” which means where the children live and how they spend their time. Think about activities, overnights, and day-to-day care, and ask yourselves:
 - Where should our children be during the week? On weekends?
 - Where should our children be for holidays, summer vacations, and special days?
 - Which parent will be in charge of which activities (sports, music, homework)?
 - Which parent is in charge at which times?
 - How will our children get from one parent to the other? Who will pay the costs of transportation?

“Legal custody,” which means who makes important decisions about the children. Be clear and specific about which decisions each parent can make on his or her own and which decisions you will make together about:

- Schools
- Daycare
- Religion
- Medical and dental care
- Emergency care
- Jobs and driving (for older children)

Resolving Legal Issues

If you have questions, ask your mediator or lawyer about any questions you have. Find a [family court services mediator in your county](http://www.courts.ca.gov/selfhelp-familycourtservices.htm) at www.courts.ca.gov/selfhelp-familycourtservices.htm

Your family court will try to make the mediation process as easy as possible.

You can also ask the [family law facilitator](#) or self help center in your county for information on family court procedures and forms or referrals to local resources. To find the program in your county go to www.courts.ca.gov/1083.htm

You may wish to develop a parenting plan using Worksheet #4 on page 57. You can find more information about parenting plans at www.courts.ca.gov.16432

How to decide on a parenting plan

When you are deciding what parenting arrangements are in the best interest of the child you have four options:

1. You and the other parent can reach an agreement.
2. You and the other parent can get help to come to an agreement.
3. You can get a lawyer to help you negotiate an agreement or represent you in court.
4. You can file papers in court and attend family court services mediation and allow the judge to decide if you can't agree.

Option 1: You and the other parent can agree

If you and the other parent can talk openly and agree about plans for the child, and there are no safety issues involved, you can develop a parenting plan together. You can use the negotiating tips in on page 33 and the parenting plan worksheet on page 57.

Legally, it's not necessary to have a separation agreement or a court order. But, it's a good idea to write down what the two of you agree to, in case there are problems later. You can make a written agreement and file it with the court.

What is a written agreement?

A written agreement is a contract between you and the other parent that says what you have both agreed to. A written agreement (or your parenting plan) can include all your decisions – about custody, visitation, and child support. It can also include your decisions about how you are going to divide the things you own and whether one parent is going to contribute to the financial child support of the other.

You and the other parent can put what you would like to in an agreement. For example, the agreement can say who has custody and what the visitation or parenting time arrangements are. The child support order, however, must follow the California Guidelines for Child Support (see page 41). All the decisions must be what is best for your children.

Make sure both you and the other parent sign the agreement. It's also a good idea to see a lawyer before you sign an agreement, to make sure that you have protected your rights. You should see a different lawyer from the one the other parent sees.

It's a good idea to file the agreement with the court. If there are problems later, you can show a judge what you and the other parent agreed to. Judges take these agreements very seriously.

You can also make your agreement into what is called a "stipulated court order", which is a formal order that a judge makes in court to confirm the agreement between you and the other parent.

For information on general steps on Writing up Your Parenting Plan, go to www.courts.ca.gov/15872.htm.

Interim agreements

When you first separate, you may want to draw up an agreement "for the time being" while you are separated from the other parent. This kind of an agreement is called an "interim agreement." Usually interim agreements are time limited. When your circumstances change, you can change the agreement.

Resolving Legal Issues

Option 2: You can get help to reach an agreement

Who can help

Private family mediators

Family mediators in private practice are usually lawyers or counselors who have specialized in mediation and can help you work out an agreement. There will be a fee.

Lawyers

Lawyers who practice family law can:

- give you legal advice about all family issues;
- help you negotiate a settlement;
- help you understand the process of applying for a court order;
- help you prepare a consent order or separation agreement;
- give you information and refer you to other services that may help; and
- represent you in court, if need be.

You have to pay for the services of a lawyer. In very limited circumstances, you may be able to get a lawyer who is paid for by legal aid.

You can find information about finding a lawyer by going to www.courts.ca.gov/selfhelp-findlawyer.htm.

Mediators and Child Custody Recommending Counselors

Family court services mediators and child custody recommending counselors work in the courts and are trained to deal with custody and visitation (parenting time) issues. If you and the other parent haven't been able to make a parenting plan, a mediator or child custody recommending counselor will:

- help you understand the child custody mediation process
- provide mediation in joint or separate meetings;
- help you develop a parenting agreement;
- give you information and refer you to other services that may help.



Parenting after Separation

To find the Family Court Services program in your court go to:
<http://www.courts.ca.gov/selfhelp-familycourtservices.htm>

California has special rules for conducting mediation. You can learn about them by reading rule 5.210 and rule 5.215 of the California Rules of Court.

Although many mediators are experienced in counseling, mediation is not counseling. A mediator meets with both parents and helps them try to agree on a plan that is best for their children. The mediator's job is to:

- Listen to both of you.
- Be neutral.
- Help you look at different options.
- Help you decide when the children will be with each parent.
- Help you decide how future decisions about your children will be made.
- Help you consider the best way to protect your children's safety and welfare.

What happens in child custody mediation?

Mediation can be a way to make decisions about your children without going to court. There is no charge for this service. You and the other parent can make your own agreement for how you will take care of your children. The legal word for this agreement is "stipulation." It is also called a "parenting plan" or a "parenting agreement" or a "time-share plan."

Generally:

- The mediator meets with the parents together or individually. The mediator will ask questions to develop an understanding of the family history. In cases of domestic violence, you have the right to meet with the mediator separately and you can bring a support person to your mediation. A support person is a person who provides emotional and moral support to a person who is a victim of domestic violence. Let your mediation or child custody recommending counselor know if you have these types of concerns.
- The mediator and parents will identify the most important issues that need to be resolved. The mediator helps the parents to focus on developing a parenting plan that is in the best interest of their children.
- The mediator will share information on the needs of children of different ages and stages of development. The mediator may address legal custody, parenting plans, holiday and vacation schedules, transportation, and other areas that relate to the needs of the children.
- You and the other parent will consider the options and may resolve all, some, or none of these issues.

Resolving Legal Issues

- Court-ordered child custody mediation sessions can last for different amounts of time in each court. Some courts are only able to offer parents 1-hour appointments. Others can work with parents during 1 or more appointments that last 2 to 3 hours each. Because each court has different resources available to help parents, this is an important question to ask when you set up your mediation appointment.

If you want more time with a mediator, you can contact a mediator in the community who can spend more time with you and the other parent. Working with a private mediator will cost you money but it can be a valuable way to resolve your differences and work out a parenting plan that will support your children and work well for your family's situation.

If one or both parents have lawyers, the lawyer may be involved in the mediation. If you have a lawyer, talk to him or her about whether you want him or her involved in the mediation and, if so, talk to the mediator about this. Some courts may not allow your lawyer in mediation, so ask your mediator about the rules in your court.

It could be very helpful to you to get legal advice before or after the mediation. It will help you understand your legal rights and responsibilities and develop options for reaching an agreement. So even if you are representing yourself in the court case, consider talking with a lawyer about the issues and the possible agreements you are reaching in mediation.

IMPORTANT! This information may not apply or be appropriate in cases of domestic violence or abuse. Read about Custody and Domestic Violence at www.courts.ca.gov/1191.htm if domestic violence is an issue in your case.

Guidelines for mediation

- In mediation, you should both:
 - Treat each other with respect. You will both get a chance to explain your ideas.
 - Listen to each other and try to find real solutions.
 - Put the children first. Think about what they need and can handle.
- In some local courts, mediators make recommendations to the judge about child custody and visitation. If you and the other parent cannot agree on a parenting plan through mediation, the mediator is asked to give the court a written recommendation. This recommendation will contain the mediator's opinion about what parenting arrangement will be in your children's best interest. Both of you will also get a written copy of the recommendation before the hearing.
- In other courts, mediation is confidential and the mediators do NOT make a recommendation to the court about child custody and visitation. If the parents agree on any issues, the mediator may provide the court with a written summary that will include the issues the parents agree on.
- Usually, mediators meet with both parties together. But if there has been domestic violence or there is a restraining order between the parents or other concerns about meeting together, the parents may ask to meet with the mediator separately. Sometimes, even when there is no domestic violence, the mediator may decide it is more appropriate and helpful to meet separately with each parent. The special rules about mediation allow the mediator to do this.
- Sometimes, mediators will interview the children if it will help the parents to develop a parenting plan that is best for the children. Mediators are trained professionals and know how to interview children without making them choose between their parents or putting them in the middle.
- If one or both parents are not comfortable mediating in English, then they may ask for an interpreter to bring an interpreter to mediation. Not all courts can offer interpreters to parents during mediation, so if this is a concern, let the mediator know when you make an appointment.

It is NOT a good idea to have your children serve as your interpreter in mediation. It is also important that the person you bring to interpret for you in mediation be ready to translate everything that is said by everyone, as closely as possible, without adding new information or his or her own comments in the process. If you do not know how to find a trained interpreter, you can ask the mediator to help you.

Resolving Legal Issues

Confidentiality of mediation

- You should get information from your mediator or the Family Court Services office about confidentiality and mediation.
- In those courts where mediators make recommendations they will be called “child custody recommending counselors.” They may include what you say in mediation in the report, which is sent to the judge, to the other parent, and to lawyers in the case. In other courts, information from the mediation would not be shared with the judge.
- If a mediator suspects child abuse or has concerns about the physical safety of the children, he or she may need to report this to child protective services or the court.

If you have experienced domestic violence:

- Tell your lawyer, if you have one.
- Tell your mediator as soon as possible.
- Answer all of the judge or mediator’s questions about this issue.
- You can see the mediator without the other parent.
- You can bring a support person with you to your mediation and to court.

Using shuttle mediation

Shuttle mediation is like mediation, only you do not have to be in the same room as the other parent. The mediator talks to you, then talks to the other parent separately. You negotiate through the mediator.

If you feel threatened by the other parent, this may be an option. A family court services mediator can provide shuttle mediation.

You can use private mediation even if you are going to court

You can use a mediator and still be seeing a lawyer at the same time. People often use mediation while they are proceeding with their court case or seeing a lawyer. When something is discussed in mediation, you can obtain legal advice at the same time. If both of you can manage to agree in mediation, you can settle the matter by a written agreement that can be filed with the court and you do not have to go to court.

Option 3: You can get a lawyer to help you negotiate an agreement or represent you in court

You can hire a lawyer to help you with your whole case or just a part of it – like a specific issue or a court hearing. They can help you with your whole divorce or separation including child support, spousal support and property division. Lawyers can be helpful in negotiating agreements, explaining the law and legal processes and preparing your case for court if you need to have a judge make a decision. It is a good idea to talk to a lawyer if you have disagreements with the other parent to get advice about how to handle the situation, and it is helpful to have a lawyer review any agreement with the other parent before you file it with the court.

Parenting after Separation

For information about finding a lawyer, go to www.courts.ca.gov/selfhelp-findlawyer.htm. For a complete list of State Bar-certified lawyer referral services organized by county, call 1-866-44-CA-LAW (1-822-442-2529.)

If you have little money and few assets, and you have serious legal problems, you may be able to get a legal aid lawyer. To find a legal aid agency office in your area, visit www.lawhelpca.org.

Option 4: You can go to court

If you and the other parent cannot agree, you may need to go to court and ask a judge to make a court order to deal with decisions about custody, visitation (parenting time), child support, assets, debts and property issues.

It may be that you are willing to try mediation, but the other parent is not. If the other parent is violent, you may be using the court system to protect yourself and your children.

It is helpful to have a lawyer, but you can go to court without a lawyer. It is very important to find out about the right forms and procedures if you are going to court. The California courts self-help website www.courts.ca.gov/selfhelp has a lot of information and links to get help with your case.

If the other parent is violent

If the other parent is violent towards you or your children, you can ask a judge for a court order to help protect you. Ask your local family court services mediator, facilitator or self help center for information on how to get a court order or call the National Domestic Violence Hotline at: 1-800-799-7233 (1-800-787-3224 (TTY)).

A *restraining order* says the other parent has to stay away from you and your children. It is not a criminal charge. Usually you get a restraining order when you are resolving the other legal issues, such as custody and child support.

A judge can make a *no-contact order* if the other parent has been arrested for being violent towards you. It can order the other parent to stay away from you and your children until the hearing or trial. For more information on domestic violence and obtaining a restraining order, go to the California Courts Judicial Branch of California website at: www.courts.ca.gov/selfhelp-abuse.htm.

Resolving Legal Issues

Checklist: Choosing a lawyer

It is important to choose a lawyer you feel comfortable with. Here are some things to consider in choosing a lawyer:

My lawyer:

- Is sensitive to safety issues and power imbalance issues.
- Recognizes that legal issues are only one part of the separation process and is sensitive to the emotional and psychological tasks of separating
- Has told me that, at any time during the process, the other parent and I may reach an agreement
- Is willing to try negotiations where I don't have to be face-to-face with the other parent

Choosing a lawyer

Once you decide to hire a lawyer, you need to make sure you hire a lawyer that is right for you and for the type of legal problem you have. First, before you meet with the lawyer, review the lawyer's background and discipline record at the State Bar's web page at Attorney Search:

<http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>

Make sure the lawyer is in good standing with the State Bar.

Read the pamphlet *[How Can I Find and Hire the Right Lawyer?](#)* from the State Bar to find more information.

Make sure to ask for simpler explanations of anything you do not understand. If you decide you want to hire a lawyer to handle only parts of your case (called limited-scope representation, discussed in detail in the next section), ask the lawyer if she or he would be willing to represent you only for certain matters. To find out more about limited scope representation see:

www.courts.ca.gov/1085.htm.

Once you get answers to your questions, ask yourself a few questions, too:

- Will you be comfortable working closely with the lawyer?
- Do you think the lawyer has the experience and skill to handle your case?
- Do you understand the lawyer's explanation of what your case involves?
- Does the fee seem reasonable?

If the answers are yes, you may want to hire this lawyer. Make sure you understand the agreement before you sign it. If you are not comfortable with any of the terms, do NOT sign it. And if you cannot work out your disagreement, you may want to find a new lawyer.

Working with your lawyer

To have a successful lawyer-client team, make sure that:

- You and your lawyer have the same goals.
- You understand and are comfortable with the lawyer's working style. Make sure the lawyer gives you a clear timetable for your case - when you can expect significant developments and when and how often the lawyer will contact you.
- You provide the lawyer with the information and documents she or he needs to understand your case.
- You understand and agree with the lawyer's billing practices.

If you have questions or concerns about your case, talk to the lawyer about them and listen to his or her responses. If you are still not clear about what is going on, many local bar associations have client relations programs that assist clients in communicating effectively with their lawyers.

How to complain about a lawyer

If you are having serious problems with your lawyer and you have been unable to resolve them by talking with him or her, there are other things you can do.

The State Bar of California is in charge of complaints against lawyers and lawyer discipline. The Attorney Discipline System takes complaints against lawyers from citizens and other sources, investigates those complaints, and prosecutes lawyers when allegations of unethical conduct by them appear to be justified. The website gives you more instructions on filing a complaint, complaint forms, and other information.

You can also call:

1-800-843-9053 — Attorney Complaint Hotline
1-213-765-1200 (*Calling from outside California*)

The State Bar pamphlet *What Can I Do If I Have a Problem With My Lawyer?* has a lot more information about what to do if you are having problems with your lawyer.

Also, you have the right to change lawyers at any time, but if you wait until you are close to trial, consider whether this would be good for you and your case. You may not be able to find another lawyer at such a late stage. And a change can delay your case or the court may order that the trial won't be delayed so you will have to represent yourself.

And remember that representing yourself in a complicated case could hurt your case.

Resolving Legal Issues

Changing court orders and agreements

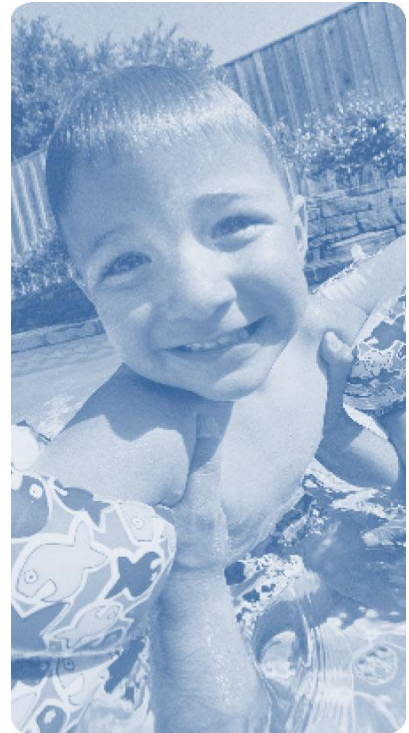
What if your situation changes after you've settled the issues and you have a court order or agreement?

For example, if there is strong evidence that the children are no longer safe while with the other parent, you may ask to have a visitation or custody order changed.

If you have *an agreement*, you and the other parent can agree to change it. If the other parent does not agree to change the agreement, you will need to go to court.

If you need to change *a court order*, and cannot reach an agreement, you have to go to court. You need to explain to the judge why you want to change the order.

For more information on how to change a child support order read more at <http://www.courts.ca.gov/1196.htm>



Parenting arrangements: Custody and Visitation (Parenting time)

What can you do if the parent who has custody won't allow the parent with access to see the children? Or the parent does not return the children after a visit?

You may be able to resolve these issues by contacting the self-help center at your court, a mediator or a lawyer. If they are unable to assist you in reaching a solution, you will need to go to court and get a court order. To find out about getting help with enforcing a custody or visitation order, see www.courts.ca.gov/1001.htm

Worksheet 4: Parenting plan

This draft parenting plan worksheet can help you and the other parent spell out the details of how you are going to parent. If you and the other parent develop a parenting plan, each of you should keep a copy. You do not have to fill all of this form out if it doesn't apply or you aren't sure yet of how you would like to answer the questions. If you are meeting with a mediator, child custody recommending counselor, or lawyer, this can provide you with some ideas to discuss in greater detail with that person. When filling this out, think about your family's routines, traditions, schedules, and any significant cultural, community, or religious practices that might be important to you or the other parent. It can be helpful to you and your children to make plans with such traditions or routines in mind.

Use the blank spaces below to type your responses. Once finished, you'll be able to print or save the document to your computer. If you save it to your computer, you can make changes to it over time.

1. Parenting goals

- a. _____
- b. _____
- c. _____

2. Communication ground rules

- a. _____
- b. _____
- c. _____
- d. _____
- e. _____

5. Time-sharing arrangements (list all options)

- a. Monthly schedule _____

- b. Vacation times _____

c. Holidays

d. Special days (birthdays, parents' birthdays)

e. Special occasions (weddings, funerals, graduations)

f. School sports, church and community events (parent-teacher conferences, school programs, sports events, church programs)

g. Grandparent time-sharing arrangements

h. Other extended family time sharing, if any

6. *Transportation details*

a. Transportation responsibilities, exchange times and places

b. Special instructions or restrictions

7. *Staying in touch*

- a. When children are with you, do you want to specify whether the other parent should call only at a certain time to stay in touch or whether the child should contact the other parent as he or she wishes?

-
- b. When children are with the other parent, would you like to have a set time you call the child or would you like to keep this flexible?
-

6. *Procedures for making decisions*

- a. How should major decisions be made and by whom (education, day care, medical and dental, therapy)?
-

- b. How will disagreements be resolved?
-

7. *Procedures for sharing information*

- a. School-related information (report cards, academic or disciplinary problems, parent-teacher conferences, school activities)
-

- b. Extracurricular activities
-

- c. Health-related information (illnesses, prescriptions, checkups, therapy sessions, other)
-

- d. Community and special events
-

8. Agenda for a parenting meeting (on a monthly or weekly basis)

- a. _____
- b. _____
- c. _____

9. Child support

Court-connected mediators and child custody recommending counselors will not be discussing child support, education, or health care or medical costs. You might want to make plans to address these issues discuss this with your attorney, family law facilitator, self-help center, or find more information here: <http://www.courts.ca.gov/selfhelp-support.htm>

Resources

Self-help

Provides information on court procedures, resources, and legal forms.

<http://www.courts.ca.gov/selfhelp>

Families Change Website

Offers information to parents and children who are experiencing separation and divorce.

www.familieschange.ca.gov

Welcome to Changeville

Using an interactive format, provides information specifically for children and youth who are experiencing separation and divorce.

www.changeville.ca.gov

Recommended Reading

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- McDonough, H., and C. Bartha. *Putting Children First: A Guide for Parents Breaking Up*. University of Toronto Press, 1999.
- McKay, Matthew, Peter Rogers, and Joan Blades. *The Divorce Book: A Practical and Compassionate Guide (2nd ed.)*. New Harbinger Publications, 1999.
- Teyber, Edward. *Helping Children Cope with Divorce (rev. ed.)*. Jossey-Bass, 2001.

Worksheet 5 Life after separation: Ways parents cope

Many parenting relationships end in separation. Here are some ways in which parents cope. Think about the self-assessment you completed in Worksheet #1. Then check of the options in this worksheet that you wish to work on.

Parenting

- Establish a flexible routine with your child and stick to it.
- Enroll your child in an activity they enjoy.
- Get a sitter for a regular night out.
- Schedule a special, reserved time each week that you and your child can look forward to sharing.

Enjoyment and Social

- Join a social club.
- Pursue single parent activities within your community
- Read a good book, take up chess, learn to play an instrument.
- Get a hobby you really enjoy.
- Do an assessment of things you've enjoyed doing in the past or make a list of things you might enjoy doing in the future.

Emotional and Psychological

- Share your feelings and experiences in a support group.
- Get some professional help with any area of your life that seems to keep you off balance.
- Help others as a volunteer or friend. In doing so, you will feel good about yourself and may learn more about yourself.
- Look at your behavior and evaluate if any of it is keeping you from being a better parent.

Physical

- Walk, jog and exercise daily or as often as possible.
- Join an exercise class or club or start one.
- Join a sports league.
- Go camping with groups or clubs.

Self-Appreciation

- Compliment yourself when you've done an effective job in parenting.
- Don't compare yourself with other parents who appear to be perfect. (Chances are, they aren't.)
- Ask for help when you need it. You deserve it.

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Source Materials

Parts of chapters 2 to 5 are reprinted or adapted from *Helping Children Succeed After Divorce: A Handbook for Parents* (1991), Children's Hospital Guidance Centers, Columbus, Ohio.

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Specific credits for other sources are as follows: the graphic on page 8 is adapted from Hennepin Family Court, Minneapolis, Minnesota; the tasks of separating for adults on page 11 are based on Wallerstein, J. and S. Blakeslee (1989) *Second Chances*, New York: Ticknor & Fields; materials on pages 26 and 27 are from Lansky, V. (1989) *Divorce Book for Parents*, New York: New American Library; the material on page 29 is based on Ricci, I. (1980) *Mom's House, Dad's House*, New York: Macmillan; page 30 is based on a list of games by Menninger Video Productions, the Menninger Clinic, Topeka, Kansas; the stages of grief for children on page 16 and the tips on communicating with the other parent on page 32 are adapted from Porter-Thal, N. (1991) *Parents, Children and Divorce*, Tampa, Florida, as are Worksheet #1 on pages 13-15, Worksheet #3 on pages 34-35 and Worksheet #5 on page 62; the Worksheet #4 on pages 57-60 are reprinted or adapted from Hickey, E. and E. Dalton (1994) *Healing Hearts: Helping Children and Adults Recover from Divorce*, Nevada: Gold Leaf Press.

This handbook provides general information only. For legal advice, please consult a lawyer.