

# SHARED PARENTING BY THE NUMBERS

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# SHARED PARENTING BY THE NUMBERS

The procedural and evidentiary requirements of shared parenting are delineated in Revised Code section 3109.04. In shared parenting, both parents are designated the residential parents and legal custodians of the children, as opposed to one parent being designated the primary residential parent and legal custodian of the children. Shared parenting is favored by most domestic relations courts, and the Summit County Domestic Relations Court is no exception to that rule.

## **Establishment of a Shared Parenting Plan**

When parents agree on shared parenting, and prepare and execute a joint shared parenting plan, the process is easy. So long as the plan covers contains all necessary elements, and is in the best interest of the children, the plan will be approved, and become a court order.

A request that the court grant shared parenting, rather than the parents' agreement to shared parenting, requires the filing of a proposed shared parenting plan with the court by at least one of the parents. The court may not prepare its own shared parenting plan. The court is not permitted to designate both parents as the residential parents and legal custodians of the children if there is no request for shared parenting, and no plan filed by one of the parents. *Preston v. Preston*, 4<sup>th</sup> Dist., No. 09CA26, 2010-Ohio-3711. There are procedural requirements regarding the timing of the filing of the plan which may not be waived by the court. Failure of the parties to abide by procedural requirements results in the court being unable to grant shared parenting, and being forced to select a residential parent and legal custodian for the children, even if shared parenting would otherwise be in the best interest of those children. Accordingly, it is important for practitioners to have an understanding of shared parenting plans in order to appropriately advocate for their clients.

The first third of Revised Code section 3109.04 (G) sets forth the most general requirement for shared parenting, the filing of a motion for shared parenting, and reads:

Either parent or both parents of any children may file a pleading or motion with the court requesting the court to grant both parents shared parental rights and responsibilities for the care of the children in a proceeding held pursuant to division (A) of this section. If a pleading or motion requesting shared parenting is filed, the parent or parents filing the pleading or motion also shall file with the court a plan for the exercise of shared parenting by both parents. If each parent files a pleading or motion requesting shared parenting but only one parent files a plan or if only one parent files a pleading or motion requesting shared parenting and also files a plan, the other parent as ordered by the court shall file with the court a plan for the exercise of shared parenting by both parents.

Division (A) of 3109.04 indicates that in any divorce, legal separation, or annulment proceeding, and in any proceeding pertaining to the allocation of parental rights and responsibilities for the care of a child, the court may allocate parental rights and responsibilities, either by designating one parent as the residential parent and legal custodian of the child, or if appropriate shared parenting filings are made, that both parents are the residential parents and legal custodians of the children.

Summit County is one of the few counties in the state in which parentage cases are handled by the Domestic Relations Court rather than the Juvenile Court. R.C. 2301.03 (I). As the court is allocating parental rights and responsibilities in parentage cases, shared parenting is an option for never-married parents, just as it is for parents who were married. Courts across the state routinely grant shared parenting to never-married parents.

The second third of 3109.04 (G) sets forth the timing requirements for the filing of shared parenting plans, stating:

The plan for shared parenting shall be filed with the petition for dissolution of marriage, if the question of parental rights and responsibilities for the care of the children arises out of an action for dissolution of marriage, or, in other cases, at a time at least thirty days prior to the hearing on the issue of the parental rights and responsibilities for the care of the children.

While this provision seems to indicate that a party must file the parenting plan thirty days in advance of the hearing, numerous appellate districts across the state have held that this provision is discretionary, and not mandatory. These courts emphasize notice of the request for shared parenting, and due process. *Hampton-Jones v. Jones*, 8<sup>th</sup> Dist. Nos. 77279, 77412, 2002-

Ohio-4229; *Swain v. Swain*, 4<sup>th</sup> Dist. No. 04CA726, 2005-Ohio-65; *Harris v. Harris*, (1995), 105 Ohio App. 3d 671, 664 N.E. 2d 1304; *In re Minnick*, 12<sup>th</sup> Dist. No. CA2003-01-001, 2003-Ohio-4245; *Onion v. Onion*, 11<sup>th</sup> Dist. No. 95-A-0002; *Clouse v. Clouse*, 2009-Ohio-1301, 3<sup>rd</sup>, Seneca, #13-08-40, 3/23/09. Unfortunately, one district that has not weighed in on this issue is the Ninth District Court of Appeals. Accordingly, strict adherence to the time limitations in R.C. 3109.04 (G) is the best way for a practitioner to ensure that shared parenting remains an option for his or her client.

The final third of Division G sets forth the minimum requirements for shared parenting plans, which are remarkably modest:

A plan for shared parenting shall include provisions covering all factors that are relevant to the care of the children, including, but not limited to, provisions covering factors such as physical living arrangements, child support obligations, provision for the children's medical and dental care, school placement, and the parent with which the children will be physically located during legal holidays, school holidays, and other days of special importance.

While most shared parenting plans contain far more content, no additional provisions are necessary to make a document a shared parenting plan. It is worthwhile to note that child support and a provision for school placement are necessary provisions in a qualifying shared parenting plan.

While Division G sets forth the requirements upon practitioners and parties who wish to have shared parenting granted, Division A sets for the requirements for the court.

(A) In any divorce, legal separation, or annulment proceeding and in any proceeding pertaining to the allocation of parental rights and responsibilities for the care of a child, upon hearing the testimony of either or both parents and considering any mediation report filed pursuant to section [3109.052](#) of the Revised Code and in accordance with sections [3127.01](#) to [3127.53](#) of the Revised Code, the court shall allocate the parental rights and responsibilities for the care of the minor children of the marriage. Subject to division (D)(2) of this section, the court may allocate the parental rights and responsibilities for the care of the children in either of the following ways:

(1) If neither parent files a pleading or motion in accordance with division (G) of this section, if at least one parent files a pleading or motion under that division but no parent who filed a pleading or motion under that division also files a plan for shared parenting, or if at least one parent files both a pleading or motion and a shared parenting plan

under that division but no plan for shared parenting is in the best interest of the children, the court, in a manner consistent with the best interest of the children, shall allocate the parental rights and responsibilities for the care of the children primarily to one of the parents, designate that parent as the residential parent and the legal custodian of the child, and divide between the parents the other rights and responsibilities for the care of the children, including, but not limited to, the responsibility to provide support for the children and the right of the parent who is not the residential parent to have continuing contact with the children.

(2) If at least one parent files a pleading or motion in accordance with division (G) of this section and a plan for shared parenting pursuant to that division and if a plan for shared parenting is in the best interest of the children and is approved by the court in accordance with division (D)(1) of this section, the court may allocate the parental rights and responsibilities for the care of the children to both parents and issue a shared parenting order requiring the parents to share all or some of the aspects of the physical and legal care of the children in accordance with the approved plan for shared parenting. If the court issues a shared parenting order under this division and it is necessary for the purpose of receiving public assistance, the court shall designate which one of the parents' residences is to serve as the child's home. The child support obligations of the parents under a shared parenting order issued under this division shall be determined in accordance with Chapters 3119, 3121, 3123, and 3125 of the Revised Code.

In short, if at least one parent files a motion for shared parenting and a plan, the court is to determine if shared parenting is in the best interest of the child. The best interest factors are listed in 3109.04 Division (F)(1), and are as follows:

(1) In determining the best interest of a child pursuant to this section, whether on an original decree allocating parental rights and responsibilities for the care of children or a modification of a decree allocating those rights and responsibilities, the court shall consider all relevant factors, including, but not limited to:

(a) The wishes of the child's parents regarding the child's care;

(b) If the court has interviewed the child in chambers pursuant to division (B) of this section regarding the child's wishes and concerns as to the allocation of parental rights and responsibilities concerning the child, the wishes and concerns of the child, as expressed to the court;

(c) The child's interaction and interrelationship with the child's parents, siblings, and any other person who may significantly affect the child's best interest;

(d) The child's adjustment to the child's home, school, and community;

(e) The mental and physical health of all persons involved in the situation;

(f) The parent more likely to honor and facilitate court-approved parenting time rights or visitation and companionship rights;

(g) Whether either parent has failed to make all child support payments, including all arrearages, that are required of that parent pursuant to a child support order under which that parent is an obligor;

(h) Whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child; whether either parent, in a case in which a child has been adjudicated an abused child or a neglected child, previously has been determined to be the perpetrator of the abusive or neglectful act that is the basis of an adjudication; whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to a violation of section [2919.25](#) of the Revised Code or a sexually oriented offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding; whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to any offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding and caused physical harm to the victim in the commission of the offense; and whether there is reason to believe that either parent has acted in a manner resulting in a child being an abused child or a neglected child;

(i) Whether the residential parent or one of the parents subject to a shared parenting decree has continuously and willfully denied the other parent's right to parenting time in accordance with an order of the court;

(j) Whether either parent has established a residence, or is planning to establish a residence, outside this state.

The court must always make a finding that a shared parenting plan is in the best interest of the children when adopting it. *Downey v. Downey*, 9<sup>th</sup> Dist. No. 23687, 2007-Ohio-6294.

Division (F)(2) sets forth the additional factors that the court is to consider in determining whether shared parenting is in the best interest of the child:

(2) In determining whether shared parenting is in the best interest of the children, the court shall consider all relevant factors, including, but not limited to, the factors enumerated in division (F)(1) of this section, the factors enumerated in section [3119.23](#) of the Revised Code, and all of the following factors:

(a) The ability of the parents to cooperate and make decisions jointly, with respect to the children;

(b) The ability of each parent to encourage the sharing of love, affection, and contact between the child and the other parent;

(c) Any history of, or potential for, child abuse, spouse abuse, other domestic violence, or parental kidnapping by either parent;

(d) The geographic proximity of the parents to each other, as the proximity relates to the practical considerations of shared parenting;

(e) The recommendation of the guardian ad litem of the child, if the child has a guardian ad litem.

The determination of whether shared parenting is in the best interest of the child primarily centers on the relationships of the parents and their ability to cooperate. Of interest is the fact that the court is required to consider the factors in R.C. 3119.23, which are the factors that the court considers in determining whether a deviation in child support is appropriate.

If the court determines that shared parenting is in the best interest of the child, then the focus shifts to the content of the plan itself. The approval process for the shared parenting plan is controlled by Division (D)(1):

(a) Upon the filing of a pleading or motion by either parent or both parents, in accordance with division (G) of this section, requesting shared parenting and the filing of a shared parenting plan in accordance with that division, the court shall comply with division (D)(1)(a)(i), (ii), or (iii) of this section, whichever is applicable:

(i) If both parents jointly make the request in their pleadings or jointly file the motion and also jointly file the plan, the court shall review the parents' plan to determine if it is in the best interest of the children. If the court determines that the plan is in the best interest of the children, the court shall approve it. If the court determines that the plan or any part of the plan is not in the best interest of the children, the court shall require the parents to make appropriate changes to the plan to meet the court's objections to it. If changes to the plan are made to meet the court's objections, and if the new plan is in the best interest of the children, the court shall approve the plan. If changes to the plan are not made to meet the court's objections, or if the parents attempt to make changes to the plan to meet the court's objections, but the court determines that the new plan or any part of the new plan still is not in the best interest of the children, the court may reject the portion of the parents' pleadings or deny their motion requesting shared parenting of the children and proceed as if the request in the pleadings or the motion had not been made. The court shall not approve a plan under this division unless it determines that the plan is in the best interest of the children.

(ii) If each parent makes a request in the parent's pleadings or files a motion and each also files a separate plan, the court shall review each plan filed to determine if either is in the best interest of the children. If the court determines that one of the filed plans is in the best interest of the children, the court may approve the plan. If the court determines that neither filed plan is in the best interest of the children, the court may order each parent to submit appropriate changes to the parent's plan or both of the filed plans to meet the court's objections, or may select one of the filed plans and order each parent to submit appropriate changes to the selected plan to meet the court's objections. If changes to the plan or plans are submitted to meet the court's objections, and if any of

the filed plans with the changes is in the best interest of the children, the court may approve the plan with the changes. If changes to the plan or plans are not submitted to meet the court's objections, or if the parents submit changes to the plan or plans to meet the court's objections but the court determines that none of the filed plans with the submitted changes is in the best interest of the children, the court may reject the portion of the parents' pleadings or deny their motions requesting shared parenting of the children and proceed as if the requests in the pleadings or the motions had not been made. If the court approves a plan under this division, either as originally filed or with submitted changes, or if the court rejects the portion of the parents' pleadings or denies their motions requesting shared parenting under this division and proceeds as if the requests in the pleadings or the motions had not been made, the court shall enter in the record of the case findings of fact and conclusions of law as to the reasons for the approval or the rejection or denial. Division (D)(1)(b) of this section applies in relation to the approval or disapproval of a plan under this division.

(iii) If each parent makes a request in the parent's pleadings or files a motion but only one parent files a plan, or if only one parent makes a request in the parent's pleadings or files a motion and also files a plan, the court in the best interest of the children may order the other parent to file a plan for shared parenting in accordance with division (G) of this section. The court shall review each plan filed to determine if any plan is in the best interest of the children. If the court determines that one of the filed plans is in the best interest of the children, the court may approve the plan. If the court determines that no filed plan is in the best interest of the children, the court may order each parent to submit appropriate changes to the parent's plan or both of the filed plans to meet the court's objections or may select one filed plan and order each parent to submit appropriate changes to the selected plan to meet the court's objections. If changes to the plan or plans are submitted to meet the court's objections, and if any of the filed plans with the changes is in the best interest of the children, the court may approve the plan with the changes. If changes to the plan or plans are not submitted to meet the court's objections, or if the parents submit changes to the plan or plans to meet the court's objections but the court determines that none of the filed plans with the submitted changes is in the best interest of the children, the court may reject the portion of the parents' pleadings or deny the parents' motion or reject the portion of the parents' pleadings or deny their motions requesting shared parenting of the children and proceed as if the request or requests or the motion or motions had not been made. If the court approves a plan under this division, either as originally filed or with submitted changes, or if the court rejects the portion of the pleadings or denies the motion or motions requesting shared parenting under this division and proceeds as if the request or requests or the motion or motions had not been made, the court shall enter in the record of the case findings of fact and conclusions of law as to the reasons for the approval or the rejection or denial. Division (D)(1)(b) of this section applies in relation to the approval or disapproval of a plan under this division.

Subsection (i) governs when both parties jointly request shared parenting and file a joint plan.

Subsection (ii) governs when both parents request shared parenting, and each files a competing plan. Subsection (iii) governs when only one plan is filed, whether one or both parties requested shared parenting in their pleadings.



Regardless of who requested shared parenting, and how many plans were filed, the process for finalizing shared parenting is similar. The court is to analyze the provisions of the plan(s), and determine if a plan is in the children's best interest. Subsection (c) instructs that any shared parenting plan approved by the court shall ensure the opportunity for both parents to have frequent and continuing contact with the child, if it is in the child's best interest. Consent of both parties to shared parenting is unnecessary. *Haas v. Bauer*, 9<sup>th</sup> Dist. No. 02CA008198, 156 Ohio App. Ed 26, 804N.E.2d 80.

If a plan is appropriate, the court will approve it. If a plan in its current form is not in the children's best interest, the court is to order a party or both parties to file a revised plan which is in the children's best interest. If the appropriate changes are not made, the court is to allocate parental rights and responsibilities primarily to one party or the other, as if no request for shared parenting had been made. Subsection (b) gives further guidance to the court:

(b) The approval of a plan under division (D)(1)(a)(ii) or (iii) of this section is discretionary with the court. The court shall not approve more than one plan under either division and shall not approve a plan under either division unless it determines that the plan is in the best interest of the children. If the court, under either division, does not determine that any filed plan or any filed plan with submitted changes is in the best interest of the children, the court shall not approve any plan.

When the court approves or disapproves a shared parenting plan, it is required to make findings of fact and conclusions of law in support of its decision. *Young v. Young*, 9<sup>th</sup> Dist. 2010-Ohio-3658, 2010 WL 3075601, Wayne, #09CA0067, 8/9/10. This is an exception to Civil Rules 52 and 53, which state that, in a non-jury trial, the court may issue a general ruling, without making specific findings of fact and conclusions of law. Consideration of best interest factors by the court may be inferred from the totality of the decision. Further:

(d) If a court approves a shared parenting plan under division (D)(1)(a)(i), (ii), or (iii) of this section, the approved plan shall be incorporated into a final shared parenting decree granting the parents the shared parenting of the children. Any final shared parenting decree shall be issued at the same time as and shall be appended to the final decree of dissolution, divorce, annulment, or legal separation arising out of the action out of which the question of the allocation of parental rights and responsibilities for the care of the children arose.

No provisional shared parenting decree shall be issued in relation to any shared parenting plan approved under division (D)(1)(a)(i), (ii), or (iii) of this section. A final shared parenting decree issued under this division has immediate effect as a final decree on the date of its issuance, subject to modification or termination as authorized by this section.

Pursuant to statute, there can never be more than one parenting plan in effect in a case, and no provisional parenting plans are to be ordered. It follows then, that after the evidentiary hearing, an interim order must be issued which instructs the parties to bring the shared parenting plan into compliance with the court's wishes regarding its terms and conditions. The amended plan, if approved, is then incorporated into the final decision on the allocation of parental rights and responsibilities made by the court.

### **Modification/Termination of Shared Parenting Plans**

Just as establishing a shared parenting plan when the parties agree upon its terms and conditions, is easy, so too is modifying a shared parenting plan by agreement. Division E of R.C. 3109.04 deals with modifications and terminations of parenting orders. Subsection (2)(a) reads as follows:

- (a) Both parents under a shared parenting decree jointly may modify the terms of the plan for shared parenting approved by the court and incorporated by it into the shared parenting decree. Modifications under this division may be made at any time. The modifications to the plan shall be filed jointly by both parents with the court, and the court shall include them in the plan, unless they are not in the best interest of the children. If the modifications are not in the best interests of the children, the court, in its discretion, may reject the modifications or make modifications to the proposed modifications or the plan that are in the best interest of the children. Modifications jointly submitted by both parents under a shared parenting decree shall be effective, either as originally filed or as modified by the court, upon their inclusion by the court in the plan. Modifications to the plan made by the court shall be effective upon their inclusion by the court in the plan.

If the parties do not agree to modify the provisions of their shared parenting plan, the court must follow the standards outlined in Subsection (E)(1)(a), below.

- (a) The court shall not modify a prior decree allocating parental rights and responsibilities for the care of children unless it finds, based on facts that have arisen since the prior decree or that were unknown to the court at the time of the prior decree, that a change has occurred in the circumstances of the child, the child's residential parent, or either of the parents subject to a shared parenting decree, and that the modification is necessary to serve the best interest of the child. In applying these

standards, the court shall retain the residential parent designated by the prior decree or the prior shared parenting decree, unless a modification is in the best interest of the child and one of the following applies:

(i) The residential parent agrees to a change in the residential parent or both parents under a shared parenting decree agree to a change in the designation of residential parent.

(ii) The child, with the consent of the residential parent or of both parents under a shared parenting decree, has been integrated into the family of the person seeking to become the residential parent.

(iii) The harm likely to be caused by a change of environment is outweighed by the advantages of the change of environment to the child.

The clear presumption of this section is the retention of the primary residential parent, and of shared parenting, rather than a *de novo* consideration of the allocation of parental rights and responsibilities.

However, the statute gives the court wide latitude to modify the terms of a shared parenting plan if it is in the best interest of the children. Subsection (2)(b) states:

(b) The court may modify the terms of the plan for shared parenting approved by the court and incorporated by it into the shared parenting decree upon its own motion at any time if the court determines that the modifications are in the best interest of the children or upon the request of one or both of the parents under the decree. Modifications under this division may be made at any time. The court shall not make any modification to the plan under this division, unless the modification is in the best interest of the children.

While it is unclear from the statute what circumstances might cause the court to modify a shared parenting plan *sua sponte*, the court has the ability to modify a shared parenting plan on its own motion, or that of either parent, if it is in the best interest of the children.

However, the case law indicates that a change in the primary residential parent and legal custodian of a child is not a “term” of a shared parenting plan under R.C. 3109.04 (E)(2)(b), and may only be modified pursuant to subsection (E)(1)(a). *Fisher v. Hasenjager*, 116 Ohio St. 3d 53, 2007-Ohio-5589, *Syverson v. Syverson*, 9<sup>th</sup> Dist. Lorain No. 12CA010205, 2012-Ohio-5569; *Dietrich v. Dietrich*, 9<sup>th</sup> Dist. 14CA26919, 2014-Ohio-4782. The Ninth District Court of Appeals, in *Gunderman v. Gunderman*, 9<sup>th</sup> Dist. No. 08CA0067-M, 2009-Ohio-3787, analyzing *Fisher*, above, held that a change of parenting time is not merely a change of term, but is a re-

allocation of parental rights and responsibilities, requiring a change of circumstances to be proven. The Third District Court of Appeals analyzed *Fisher*, and came to the exact opposite result, that parenting time is a “term” which can be modified when best interest dictates. *Herdman v. Herdman*, 3<sup>rd</sup> Dist. No. 9-08-32, 2009-Ohio-303; *Picciano v. Lowers*, 4<sup>th</sup> Dist. No. 08CA38, citing *Herdman*. The cautious practitioner should introduce “change of circumstances” testimony whenever a modification of parenting time is requested. In *Porter v. Porter*, 9<sup>th</sup> Dist. No. 02CA21040, 2002-Ohio-6038, the Ninth District held that a change of residential parent for school purposes is a change of term, not a reallocation of parental rights and responsibilities. (But see *In re Jacobberger*, 11<sup>th</sup> Dist. No. 2003-G-2538, 2004-Ohio-6937).

As regards termination of shared parenting plans, R.C. 3109.04 (E)(2)(c):

(c) The court may terminate a prior final shared parenting decree that includes a shared parenting plan approved under division (D)(1)(a)(i) of this section upon the request of one or both of the parents or whenever it determines that shared parenting is not in the best interest of the children. The court may terminate a prior final shared parenting decree that includes a shared parenting plan approved under division (D)(1)(a)(ii) or (iii) of this section if it determines, upon its own motion or upon the request of one or both parents, that shared parenting is not in the best interest of the children. If modification of the terms of the plan for shared parenting approved by the court and incorporated by it into the final shared parenting decree is attempted under division (E)(2)(a) of this section and the court rejects the modifications, it may terminate the final shared parenting decree if it determines that shared parenting is not in the best interest of the children.

The court can terminate both agreed-upon shared parenting plans and those developed after litigation if the plan is no longer in the best interest of the children. Case law holds that the decision to terminate a shared parenting plan does not require a finding of a change of circumstances, although it is difficult to imagine a situation in which it would be in the best interest of a child to terminate a shared parenting plan if nothing had changed. *Toler v. Toler*, 2<sup>nd</sup> Dist. No. 10-CA-69.

Finally, if a shared parenting plan is terminated by the court, the court then determines which parent should be the primary residential parent and legal custodian of the children, pursuant to R.C. 3109.04 (A) through (C). (R. C. 3109.04 (E)(2)(d)).

## **Shared Parenting Plan Provisions That Can Lead to Further Litigation**

There are certain provisions which are commonly included in shared parenting plans that frequently and predictably lead to further litigation. Often these less-than-ideal provisions are inserted as a way to reach a settlement in the case, kicking the conflict down the road to another day. While the court fully understands the temptation to insert the following types of provisions, they often increase the level of distrust and friction between the parties, and over time, do more harm than good.

### *1. Agreements to Agree.*

An agreement to agree on an issue is no agreement at all. A requirement that the parties agree upon medical treatment, child care or school district is unenforceable. For contempt purposes, which of the parties is to blame if they do not reach an agreement? In the interim, the stalemate and accompanying instability is detrimental to the parties' children. If the parties "agree to agree", it is important to have a backup plan to break the tie between the parties. For example, if parties disagree on medical treatment for the child, they will follow the recommendation of the child's pediatrician. If they cannot agree on extracurriculars, each parent will choose and finance one activity per season for the child, or perhaps the parent who wants the child to participate pays.

### *2. Right of First Refusal.*

When a parent is going to be unable to care for the children for a period of time, contacting the other to offer them the opportunity before all others to care for the children is the appropriate thing to do. However, if the parents do not get along well, this provision can be a nightmare. Periods of time that are too short severely hinder parents' ability to enjoy normal family life. Children should be able to have overnight visits with grandparents and cousins without interference from the other parent. Sometimes having a non-residential parent take over school day activities is disruptive to children's academic and extracurricular routines. Finally, and worst

of all, if the absent parent is not scrupulously honest, the child may be pressed into service as a spy against the other parent. In short, the conflict caused by the right of first refusal provision is often far more detrimental to the children than being without either parent for that period of time.

### *3. Failure to Make a School Placement.*

When parties separate when their children are infants or toddlers, the decision as to where the children should attend school seems, and is, years away. Parents, especially young parents, genuinely may not know where they will be living when the children start school. As school placement is often a hot-button issue, it is tempting to avoid it and agree to agree at some point in the future.

Those years pass quickly, however, and invariably, when the parties cannot agree, one parent or

The other takes it upon him or herself to enroll the children in school against the wishes of the other parent. At a time when children badly need their parents to be supportive of their academic careers, the parent who was shut out is often less than enthusiastic about the child's school placement. The parent less likely to abide by court orders often benefits. By the time the issue gets before a magistrate or judge, the child is often established in the non-complying parent's school district, and it is often not in the best interest of the child to disrupt their education at that time.

In some cases, parties select a particular school district for the child, and then both parents move out of the school district. If open enrollment is not available or feasible, it is as if no school district was selected. The parties really need to have a tie-breaker provision to avoid interruption or confusion regarding the child's academic career, should the unanticipated occur, or if the parties are unable to agree.

#### 4. Agreements to Share Expenses.

Sometimes parties will agree to share expenses such as child care, clothing, and school fees and supplies for the children. Often this arrangement is agreed to by the parties in exchange for a diminution or even elimination of child support. Unfortunately, it is all too common that the obligor party simply does not pay.

These provisions can be difficult to enforce. Some parents gather large numbers of receipts together over a long period of time, which total a substantial amount of money, and spring them on the other parent with little or no warning. Some parents provide little or no documentation of the total expense, and of the payments made by the parent requesting reimbursement or contribution. Some parents just never seem to receive any communications from the other parent. For some obligor parents, no amount of supporting documentation is sufficient to convince them that they actually owe anything.

In these situations, it is critical to have a clear definition of what expenses are subject to sharing. Is the daughter's \$700.00 prom dress clothing, or something else? Are summer camps child care, or extracurricular activities? Is the top of the line laptop that the school recommends purchasing for the son a school expense? What about school lunches? Terms need to be defined, and the parameters of the parties' agreement need to be detailed, in order to avoid conflict between the parties, and in order to be enforceable.

Likewise, there need to be strict guidelines with regard to the timing and method of submission of expenses, and the appropriate documentation to be provided in support of expenses. While online parenting programs enable the parties to communicate about expenses, the quality of the results received will depend on the quality of the information provided. For medical expenses, the party seeking reimbursement needs to provide the invoices that aggregate to that party's \$100.00 per year per child, so that the other parent knows when that parent's liability begins.

Practitioners must ensure that the method of providing expense information provides a reliable paper or electronic trail. Parents who do not want to pay often deny being notified of expenses. It is the moving party's burden to prove that expense information was provided, and when. If parents do not keep adequate records, they may be unable to recoup their expenses.

#### 5. Extracurricular Activities

Extracurricular activities can be quite beneficial to children, teaching them new skills, teamwork, and community involvement. However, most extracurricular activities cost money, and require special, sometimes expensive, equipment. Having a child on a traveling sports team requires a substantial commitment of time and money from the parents. Hotel and tournament fees, meals on the road, all of these expenses add up quickly.

Blanket requirements that the parties split the fees associated with extracurriculars can give one parent the ability to spend a great deal of the other parent's money. Some parents overschedule the children to deprive the other parent of time with the children. Requirements that the parties split the costs of extracurriculars that they agree upon causes some parents to never agree that the child should participate in extracurricular activities. Provisions that neither parent "unreasonably" withhold consent to activities are poorly defined, and hard to enforce.

Provisions that can help might limit the number of activities that the children can be involved in per season or per year, and establish limitations on cost, per season or per year. The parties might specify which activities that they agree to the children participating in, and which would require agreement between them. As with any provision in a shared parenting plan, the more specific the agreement, the more likely it is to be understood by the parties, and to be enforceable if one or both of the parties do not comply.



# Oddball clauses for shared parenting plans

## 1. Substitutions for child support clauses:

### Preamble –

The parties acknowledge that:

- a. They are fully informed of their rights concerning child support.
- b. This Agreement is being entered to without coercion or duress.
- c. The Agreement is in the best interest of the #child/children involved.
- d. The needs of the #child/children will be adequately met by our agreement regarding child support as set forth herein.
- e. The right to support for the children has not been assigned to the County and no public assistance application is pending.

---

### Sample A – Justification for deviation

Mother and the Father have reviewed the child support guideline worksheet, computed on their current incomes as attached, and believe it would not be in the best interest of their minor #child/children to provide that the #Father/Mother pay guideline child support and that is would be inequitable and inappropriate to follow the guidelines because:

- a) Special and unusual needs of the #child/children - #Father/Mother is paying for the #child/children's [list special need];
- b) Extraordinary obligations for the minor #child/children - #Father/Mother is paying \_\_\_\_\_ per month into a College 529 Plan/ [state other costs]
- c) Extended parenting time as detailed herein;
- d) Transportation costs associated with parenting time
- e) Disparity in income between households;
- f) The responsibility of #Father/Mother for support of [list others and reasons]
- g) Significant in-kind contributions as detailed below;
- h) The limit in duration and the spousal support payable by #Father/Mother to #Father/Mother as provided in their Separation Agreement dated \_\_\_\_\_ 20\_\_\_\_;

- i) The parties stipulate that the spousal support #Father/Mother is in effect waiving exceeds the \$\_\_\_\_\_ per month, the duration of the payment of spousal support #he/she is in effect waiving exceeds the number of years left for the minority of their youngest child, and \$\_\_\_\_\_ per month shall be a credit toward the payment of any child support that the #Father/Mother may be ordered to pay in the future;
- j) The cost of litigation, which would exceed \$\_\_\_\_\_ for each of the parties.
- k) #Mother/Father is a minor;
- l) #Mother/Father has a reduction in the income due to #his/her responsibility for extraordinary levels of jointly accumulated debt;
- m) The parents agreed that #Mother/Father shall receive #Mother's/Father's interest in [name property] without an equity payment to the other parent in lieu of child support;
- n) #Mother/Father is incarcerated with minimal or no income or assets;
- o) #Mother/Father has incurred, or is likely to incur, extraordinary medical expenses for [name dependent];
- p) #Mother/Father earns an income of a magnitude not fully taken into consideration by the formula;
- q) #Mother/Father receives bonus income in varying amounts or at irregular intervals;
- r) #Mother/Father's spouse [Someone other than the parent] can supply reasonable and appropriate health care coverage;
- s) #Mother/Father provides substantially all the support for a stepchild, and the stepchild's parents earn no income and are unable to earn income;
- t) #child/children earn(s) an extraordinary income;
- u) #Mother/Father must pay significant amounts of restitution, fines, fees, or costs associated with that parent's conviction or incarceration for a crime other than those related to failing to support children;
- v) #Mother/Father makes payments to a bankruptcy plan or has debt discharged, when either significantly impacts the monies that parent has available to pay support;
- w) #Mother/Father provides a substantial amount of the #child's/children daytime care allowing #Mother/Father to work/attend school without having to pay for childcare expenses

The parties do agree that the facts set out above are stipulated into evidence and the parties shall incorporate the findings of fact and the conclusion that the deviation from the guidelines is in the best interest of the #child/children for the reason stated above all of which enable the #Father/Mother to have greater cash flow for the use and benefit of their child, and their emancipated child, who is attending \_\_\_\_\_ University.

---

### **Sample B – expense sharing**

The parents agree to share the direct expenses of the #child/children on an equal basis, and agree that the exchange of child support from #Father/Mother to #Father/Mother is inappropriate, unjust and not in their #child's/children's best interests.

- a) Each party shall pay for the clothing and related items for the #child/children used and kept at each parent's respective residence.
  - b) The parents agree that the #child/children may be involved in extracurricular activities with the consent of the other parent. They further agree that the cost of such agreed activity, including any uniforms or equipment, shall be shared equally.
  - c) The parents shall each pay one-half of the following direct expenses of the #child/children:
    - a. Any clothing needed for the #child's/children's special events, (which shall include, but not be limited to, prom dresses, sports uniforms, scout uniforms) so long as the expenditure for such clothing is reasonable and discussed with the other parent prior to the purchase;
    - b. Any school-related or educational expenses which are not included in the #child's/children's regular tuition and fees, as long as such expenses are reasonable and discussed with the other parent prior to the expenditure; and
    - c. Child care expenses to \_\_\_\_\_;
    - d. Uninsured healthcare expenses;
    - e. Agreed-upon extracurricular activities, lessons, uniforms and fees;
    - f.
  - d) Failure of either party to pay their respective share of the child's direct expenses as they become due may be considered a basis for terminating the shared residency formula, attorney fees, or other sanctions.
  - e) This arrangement is deemed in the best interest of the minor children.
- 

### **Sample C - expense sharing**

It is agreed between the parents that as part of the shared expense formula of the parties, the parties shall share the direct expenses of the minor #child/children:

- a) The #Mother/Father shall be responsible for all school expenses, school lunches, and school supplies;
- b) The #Father/Mother shall be responsible for tuition, enrollment, and all fees related to education;
- c) The #Mother/Father shall be responsible for the cost of childcare/after-school care;
- d) The #Father/Mother shall be responsible for all extracurricular activity expenses, including all school activity clothing and equipment;

- e) The #Mother/Father shall be responsible for the cost of clothing, haircuts, makeup, and personal items;
  - f) The #Mother/Father shall be responsible for 100% of the #child's/children's uninsured healthcare expenses;
  - g) The parties shall permit clothing and activity uniforms and equipment to pass between households reasonably;
  - h) This arrangement is deemed in the best interest of the minor #child/children.
- 

### **Sample D - expense sharing**

- a) The parties agree to share the reasonable direct expenses of the #child/children.
- b) The parties agree that the historical direct expenses of the minor #child/children are :
  - a. School related expenses
    - i. Tuition
    - ii. Fees
    - iii. School lunches
    - iv. School trips
    - v. Supplies
    - vi. Yearbooks
    - vii. Pictures
    - viii. Testing costs of standardized college admission testing
  - b. Extracurricular activities
    - i. Pom pon Squad
    - ii. Softball
    - iii. Dance lessons
    - iv. Summer camp
    - v. Horseback riding lessons
    - vi. Scouts
  - c. Clothing
    - i. Day to day/school (Each party agrees to provide a minimum of \$200 worth of clothing for each child per quarter and that the clothing shall pass back and forth between households.)
    - ii. Sports uniforms
  - d. Transportation
    - i. Fuel (Father and mother agree to provide up to \$50 per month fuel for child's car.)
    - ii. Maintenance such as oil changes and tire rotation (Father and mother agree to share equally the maintenance on the child's car; any expenses that are

- likely to cost over one hundred dollars shall be discussed before being incurred; the party not incurring the expense shall have the right to obtain a second estimate before the expense is incurred.)
- iii. Mother shall carry the child on her auto insurance; father shall reimburse the mother one-half of the additional cost of carrying the child.
- e. Miscellaneous
    - i. Cellular telephone service
    - ii. Internet access
  - f. College
    - i. Standard college admissions testing
    - ii. Visits (Each parent may elect to take the children on college visits at their own cost.)
    - iii. Post-graduation costs (Each parent shall contribute to college expenses as they deem appropriate.)
  - g. Haircuts, makeup, manicures and personal items: Mother and father each agree to provide up to \$75.00 per quarter for children's haircuts, makeup, etc.
- 

#### **Sample E – expense sharing –**

The parents further agree they shall share the following expenses:

- a. The #Mother/Father shall purchase the regular clothing for the minor #child/children which shall go back and forth between households.
- b. The #Mother/Father shall pay all of the school expenses, including fees, tuition, school lunch, field trips, books and supplies.
- c. The parties shall each pay one-half of the following direct expenses of the #child/children:
  - i. Any clothing needed for special events, (which shall include, but not be limited to, scouts, prom, sports) so long as the expenditure for such clothing is reasonable and discussed with the other party prior to the purchase.
  - ii. The parties shall each pay one-half of any direct expenses unrelated to school but relating to the education, health or fitness, so long as such expenses are reasonable and discussed with the other party prior to the expenditure, i.e. band instruments, portable calculator, etc.
  - iii. Summer camps as agreed for a maximum of \_\_\_ weeks per summer per child;
  - iv. Before and after-school care;
- d. This expense sharing plan is in the best interest of the minor #child/children.

- e. Failure to share expenses under the foregoing formula may result in a reversion to a conventional child support formula.
- 

### **Sample F – Expense sharing**

1. The purchase of school clothing shall be done jointly by the parents during the month of August. The parents agree they will each be responsible for one-half of the cost of school clothing.
  2. The parents further agree they will shop for the children's summer clothes during April or May. Each parent shall be responsible for one-half of the cost of the children's summer clothing.
  3. The parents further agree they are each free to buy additional clothing for the minor children at their own expense. The parents agree that clothing shall be permitted to pass back and forth between households.
  4. The parents further agree to share the cost of school enrollment, books, and supplies equally.
  5. School lunches shall be prepaid for each of the minor children with each parent paying half of the cost directly to the school.
  6. The parents agree to share the cost of any field trips equally. Each parent shall make the payments directly to the school.
  7. The parents agree that the children may be involved in extracurricular activities with the consent of the other parent. Father is currently paying for fencing, and mother is currently paying for piano lessons. They further agree that the cost of any additional activity, including any uniforms or equipment, shall be shared with mother paying \_\_\_\_\_% and Father paying \_\_\_\_\_% of such expenses.
  8. Any school-related expenses which are not included in the children's regular tuition and fees, so long as such expenses are reasonable and discussed with the other parent prior to the expenditure, shall be shared equally.
- 

### **Sample G – Child's Checkbook**

The parents agree that they will establish a #Child's/Children's Account at \_\_\_\_\_ bank. The parents agree that this account shall be used to fund the #child's/children's needs, and each will have full access to banking records. Mother shall deposit \$\_\_\_\_\_ per month and Father shall deposit \$\_\_\_\_\_ per month. Expenses of the #child/children to be paid from the account include:

1. Children's lunches at school;
2. Clothing, shoes, coats;
3. Marginal costs for mother/father insuring the children's healthcare needs
4. Uncovered healthcare expenses - prescriptions, eye care, therapy, counseling, and orthodontia;
5. Personal care items - grooming products, cosmetics and personal care products for teenagers, manicures, personal items and other non-grocery items needed by the children;
6. Haircare;
7. Childcare;
8. Education expenses: tuition, tutoring, books, supplies and other school costs
9. Non-school classes, enrichment, camps;
10. Sports and extracurricular fees, including uniforms and equipment;
11. Automobile expenses;
12. Gifts: (gifts the children give to their friends at birthday parties and other special times);
13. Recreation and entertainment;
- 14.

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**Sample F - How to Pay variations:**

- a. The parents agree to utilize [www.ourfamilywizard.com](http://www.ourfamilywizard.com) or <https://www.2houses.com/en/tools/> or <https://supportpay.com/> to manage, track and reimburse each other for direct expenses.
- b. The parents shall maintain a record of their expenditures on direct expenses of the children in receipts. Reimbursement/balancing of accounts: the mother and father shall exchange expense information each quarter by the 15th of the month following the quarter. Necessary payment to equalize shall be within 30 days of the exchange of expenses. If the balance is less than \$100, no payment is necessary.
- c. At the end of each quarter of the calendar year, or mutually agreed upon by the parties, the parties shall present to each other their respective expenditures for direct expenses of the minor #child/children in receipts for purchases and cancelled checks or other form of payment. After totaling the expenditures for each party, the party with the lower amount of expenditures shall reimburse the other party one-half of the difference within thirty (30) days. Failure of one party to submit any such direct expenses to the other party by this method for a period of 120 days following the expenditure shall extinguish any right of reimbursement from the non-participating party in such expense.

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## 2. College Education -

**Post-Secondary Education.** The parents agree that a college education will be beneficial to the #child/children. The #child/children shall apply for grants, aids and scholarships for financial assistance for education. If the grants, aids and/or scholarships are not sufficient to pay the reasonable cost for tuition, books and required fees for attending the #child's/children's college (not to exceed the highest cost for an Ohio state-supported college), each parent and the child will contribute as they can, up to #one-third/half of the amount necessary to cover that deficit.

Father and Mother acknowledge that they have a moral obligation to aid and assist their children in obtaining education after high school. Each shall do what they can, in their sole discretion, to provide such aid and assistance.

Within the definitions, limits and upon conditions hereinafter set forth, the Mother/Father shall pay \_\_\_% of the expenses of the #child's/children's post high school education. The definitions, limits and conditions of such obligations shall be:

**Ability.** The Father's/Mother's obligations are expressly conditioned on \_\_\_\_\_ financial ability to pay said expenses during the time which the expenses are being incurred, but financial ability shall be judged and defined within the context of how a reasonable and prudent parent would position himself/herself financially in anticipation of post-high school education for the #child/children;

**Duration.** The Father's/Mother's obligation shall not exceed \_\_\_ quarters or \_\_\_ semesters, as the case may be, for any child's post-high school education. Said quarters or semesters must be completed within six years immediately following the date of the child's graduation from high school;

**Expenses.** Expenses of post-high school education shall be defined as the cost of room, board, tuition, and required text books. Notwithstanding the above, in no event shall the Father/Mother be responsible for cost of room, board, tuition, and required text books that exceed \_\_\_ % of the cost thereof at \_\_\_\_\_ for the time period in question, less \_\_\_ % of the amount of all scholarships, gifts or other remunerations (not loans) received by any such child for his or her post high school education. \_\_\_\_\_ (specify year) is used herein to establish a cap for Father's/Mother's liability. Nothing herein shall require the child to attend \_\_\_\_\_. If he/she attends elsewhere, public or private, college or university, the cost at \_\_\_\_\_ shall be used to establish the maximum amount of Father's/Mother's liability.

**Grade Point Average.** The child must maintain a 2.0 grade point average on a 4.0 scale, or its equivalent, for each school year. If the child does not achieve a 2.0 grade point average for the school year, then the next quarter or semester, as the case may be, shall be at the child's expense and the #Mother/Father shall have no obligation to pay the expenses thereof. IF the child obtains a 2.0 grade point average for the quarter or semester following a year in which said grade point average was not achieved, then the Father's/Mother's obligation to pay the expenses provided for herein shall renew, but the duration of Father's/Mother's obligation shall in no event extend



beyond the duration provided herein, less each of the quarters or semesters that the child was obligated to pay because of grades.

**Moral Obligations.** The Father and Mother, without legal obligation, will endeavor to provide for their #child's/children's financial assistance in addition to financial obligations herein provided, if either is financially able, to aid and assist in their educational pursuits.

**Benefit.** The parties do not intend to create any third party rights by reason of this Article. It is the intent of the parties to assure that they have control over the funds being provided for the education of their #child/children. The parties reserve the right to amend this provision by mutual consent in writing. No person or entity, other than the Father or Mother, shall have the right to seek enforcement of the original terms thereof or amended terms after any such amendment.

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### 3. Residential Schedules

#### Sample A- Factor involving Domestic Violence, Child Abuse/Neglect –

##### Reasons for putting limitations on a parent

**a. Abandonment, neglect, child abuse, domestic violence, assault, or sex offense.**

Because #Mother/Father (or someone in a parent's household)

- was convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child;
- has been determined to be the perpetrator of the abusive or neglectful act which was the basis for an abused or neglected adjudication;
- was convicted of or pleaded guilty to a violation of section [2919.25](#) of the Revised Code or a sexually oriented offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding;
- was been convicted of or pleaded guilty to any offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding and caused physical harm to the victim in the commission of the offense;
- has acted in a manner resulting in a child being an abused child or a neglected child;
- has a long-term problem with drugs, alcohol, or other substances that gets in the way of his/her ability to parent.
- has few or no emotional ties with the child

the parents agree that

the #child's/children's parenting time with #Mother/Father parenting time shall be

- Limited contact (*specify schedule*)
- Monitored exchanges (*specify*)

- Supervised (*specify schedule*)
  - Any costs of supervision must be paid by (*name*):
  - The supervisor shall be:
    - a professional supervisor (*name*):
    - a non-professional supervisor (*name*):
    - (*Specific rules for supervision, if any*):
- A progressive schedule, starting with
  - Progressing to
  - Progress to be measured by
- Evaluation or treatment required. #Mother/Father must: be evaluated for: \_, and
  - start (or continue) and comply with treatment:
  - as recommended by the evaluation.
  - as follows (*specify kind of treatment and any other details*):
  - provide a copy of the evaluation and compliance reports to (*specify details*):
  - If this parent does not follow the evaluation or treatment requirements above, then (*what happens*):

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**b. Substance Abuse –**

#Mother/Father shall modify her/his behavior in the presence of the child/ren in the following ways:

- #She/he shall not operate a motor vehicle within \_ hours of consuming drugs or alcohol.
  - #She/he shall not consume alcohol or drugs within \_\_\_hours of having the children.
  - #She/he will not consume alcohol or drugs while the child/ren is/are in her/his care.
  - #She/he shall not allow others to consume alcohol or drugs in the presence of the child/ren.
  - #She/he shall submit to a drug and alcohol screening performed by [name] on a basis for (time period).
- 

**Sample B-**

**Children under School-Age**

The children will be with #Father/Mother on

WEEKENDS: #every week/every other week/other from (day) at (time) to (day) at (time)

WEEKDAYS: #every week/every other week/other from (day) at (time) to (day) at (time)

and the children will be with #Father/Mother on

WEEKENDS: #every week/every other week/other from (day) at (time) to (day) at (time)

WEEKDAYS: #every week/every other week/other from (day) at (time) to (day) at (time)

### **School-Age Children**

This schedule will apply when the #youngest child/the oldest child/each child begins #Kindergarten/1st grade/Other:

The children will be with #Father/Mother on

WEEKENDS: #every week/every other week/other from (day) at (time) to (day) at (time)

WEEKDAYS: #every week/every other week/other from (day) at (time) to (day) at (time)

and the children will be with #Father/Mother on

WEEKENDS: #every week/every other week/other from (day) at (time) to (day) at (time)

WEEKDAYS: #every week/every other week/other from (day) at (time) to (day) at (time)

### **Summer Schedule**

Summer begins and ends #according to the school calendar/as follows: (specify)

The Summer Schedule is the same as the School Schedules except that each parent shall spend \_\_\_\_\_ weeks of uninterrupted vacation time with the children each summer. The parents shall confirm their vacation schedules in writing by (date) \_\_\_\_\_ each year.

The Summer Schedule is different than the School Schedules. The Summer Schedule will begin the summer before #the youngest child/the oldest child/each child begins #Kindergarten/1st grade/Other:

During the summer the children are scheduled to be with the parents #on alternating weeks, transitions to occur on #(day) at (time) at (place)/modified regular school-year schedule

The children will be with #Father/Mother on

WEEKENDS: #every week/every other week/other from (day) at (time) to (day) at (time)

WEEKDAYS: #every week/every other week/other from (day) at (time) to (day) at (time)

and the children will be with #Father/Mother on

WEEKENDS: #every week/every other week/other from (day) at (time) to (day) at (time)

WEEKDAYS: #every week/every other week/other from (day) at (time) to (day) at --- (time)

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### Sample C –

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#### SCHEDULE

##### AGE: 0 – 1 YEAR

##### Regular Parenting Time

Two visits of up to 2 hours each **AND** one 6 hour visit per week. **NO** overnights.

If the parents are unable to agree, the days for the parenting time shall be:

Monday and Wednesday 12PM to 2PM **OR** 5:30 PM to 7:30PM **AND** Saturday **OR** Sunday 1PM to 7PM.

##### AGE: 1 – 3 YEARS

#### SCHEDULE

Every Tuesday at 6PM until 8:30PM **AND** alternate weekends.

ALTERNATE WEEKEND time is defined as Friday 6PM until Saturday 6PM **OR** Saturday 6PM until Sunday 6PM

##### AGE: 3 YEARS AND OLDER

#### SCHEDULE

Every Tuesday at 6PM until Wednesday to school/daycare/ or custodial parent, no later than 10AM **AND** alternate weekends.

ALTERNATE WEEKEND time is defined as Friday 6PM until Sunday 6PM

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**Sample D –**

If there is no school for the Friday beginning their weekend with #Mother/Father, the children will be with #Mother/Father beginning on Thursday at 6:30 pm until Sunday at 6:30 pm; if there is no school on Monday following their weekend with #Mother/Father, the children will be with #Mother/Father from Friday at 6:30 pm until Monday at 6:30 pm; and if there is no school on Friday and Monday of their weekend with #Mother/Father, the children will be with #Mother/Father from Thursday at 6:30 p.m. until Monday at 6:30 pm.

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**Sample E –**

The children shall be with Mother and Father alternating weekends from Friday after school to Monday morning, and two days each week, being with Father Monday overnight and Tuesday overnight and taking the children to school on Wednesday morning, and being with Mother Wednesdays after school overnight and Thursdays overnights and taking the children to school on Friday and Monday. Depending on the alternating weekend, Father or Mother will have the children from after school Friday through Monday morning. This will result in a five days, two days, two days and five days rotation. During the five-day period with Father, the children will have after school and dinnertime with Mother on Mondays, and during the five-day period with Mother, the children will have after school and dinnertime with Father on Thursdays.

Week	Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.	
1.	F	F*	F	F/M	M*	M	M	M = Mother
2.	M	M/F	F	F/M	M	M/F	F	F = Father
3.	F	F*	F	F/M	M*	M	M	* denotes dinner with other
4.	M	M/F	F	F/M	M	M/F	F	parent

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**Sample F –**

During the school year, #NameChildren will be with Father every other weekend from Friday after daycare until Monday AM when he will take #him/her/them to daycare; every Wednesday from after daycare until taking #him/her/them to daycare Thursday morning; and alternating Monday afternoon from after daycare until 8:00 PM when Father brings #him/her/them to Mother's home following Mother's weekend with #NameChildren.

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**Sample G –**

<Name Child> shall be with his #Father/Mother from 5:30 PM until 9:00 PM every Tuesday and every Wednesday, shall be with #Mother/#Father on the Mondays and Thursdays on which #he/she does not work and with #Father/Mother from 5:30 PM until 9:00 PM on the Mondays and Thursdays on which #Mother/#Father is working, and with #Father/Mother alternating weekends from Friday at 5:30 PM until Sunday at 7:00 PM; and <Name Child> shall be with #Mother/Father all other times not specified.

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**Sample H –**

<Name Child> shall be with #Mother/Father from Sunday at 6:00 PM until Wednesday morning at 9:00 AM and from Wednesday afternoon at 2:00 PM until Friday afternoon at 5:00 PM; and the #child/children will be with #Father/Mother from Friday at 5:00 PM until Sunday at 6:00 PM and from Wednesday at 9:00 AM until 2:00 PM.

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**Sample I –**

On the second and fourth weekends of the month, the #child/children will be with #his/her/their #Father/Mother from Friday after school until Tuesday morning when #he/she/they #go/goes to school, and will be with #Father/Mother every Thursday after school until school on Friday morning, and alternating Wednesday evenings (second and fourth Wednesdays of the month); on the first and third weekends of the month, <Name Child> will be with #his/her/their #Mother/Father from Friday after school until Monday morning when #he/she takes #him/her/them to #Mother's/Father's house before school and Monday evening after work until Tuesday morning when #he/she takes #him/her/them to Father's house before #he/she/they leave for school, and will be with #Mother/#Father/Mother every Tuesday after school until #he/she takes #him/her/them to #Mother's/Father's home before school on Wednesday morning, and alternating Wednesday evenings (first and third Wednesdays of the month); for the fifth Wednesday or fifth weekend of any month, the parents shall alternate between themselves the allocation of these days. Should rescheduling be necessary, the parents shall communicate by telephone when the need to reschedule is known to him/her, and the other parent will cooperate in rescheduling.

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**Sample J –**

No later than (date) of each year, #Father/Mother shall obtain the school calendar for the next year and shall mark it or another yearly calendar with Father's time and Mother's time for the school year, holidays and summer under this agreement and give a copy to the other parent. The parents shall discuss any differences by (date) and the parents shall reach an agreement or use the dispute resolution provisions by (date). This is the calendar that shall be in effect for the following year.

## 4. Relocation

### Sample A-

If a parent plans to move, s/he **must notify** every person who has court-ordered time with the #child/children.

#### ***Move to a different school district***

If the move is to a different school district, the parent must complete the form *Notice of Intent to Relocate* and deliver it at least **60 days** before the intended move.

#### *Exceptions:*

- If the parent could not reasonably have known enough information to complete the form in time to give 60 days' notice, the parent must give notice within **5 days** after learning the information.
- If the parent is relocating to a domestic violence shelter or moving to avoid a clear, immediate and unreasonable risk to health or safety, notice may be delayed **21 days**.
- If information is protected under a court order or the address confidentiality program, it may be withheld from the notice.
- A parent who believes that giving notice would put her/himself or a child at unreasonable risk of harm, may ask the court for permission to leave things out of the notice or to be allowed to move without giving notice.
- The *Notice of Intent to Relocate* can be delivered by having someone personally serve the other party or by any form of mail that requires a return receipt.

If the parent wants to change the *Parenting Plan* because of the move, s/he must deliver a proposed *Parenting Plan* together with the *Notice*.

#### ***Move within the same school district***

If the move is within the *same* school district, the parent still has to let the other parent know. However, the notice does not have to be served personally or by mail with a return receipt. Notice to the other party can be made in any reasonable way. No specific form is required.

#### ***Right to move***

During the 30 days after the *Notice* was served, the parent may not move to a different school district with the children unless s/he has a court order or written permission from the other parent allowing the move.

After the 30 days, if no *Objection* is filed, the parent may move with the children without getting a court order or permission allowing the move.

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### Sample B –

1. Neither parent shall move #NameChildren's residence outside of Summit County, Ohio or an adjoining county without first obtaining consent of the other parent or permission from

the court.

2. Failure to abide by this provision may cause a contempt finding of the court. The parents agree that a parent who moves the residence of the child without first having written agreement from the other parent or an order approving such move shall pay all attorney fees of the non-relocating parent and all costs of court.

3. If one parent moves #his/her/their/her residence more than 50 but less than 150 miles from the residence #he/she/they/she has when this agreement #is/are signed, the moving parent then has the responsibility for all transportation and all transportation costs of the child for companionship.

4. If one parent plans to move over 150 miles from the residence #he/she/they/she has when this agreement #is/are signed, the parent planning to move shall notify the other parent when possible but no later than thirty (30) days prior to the planned moving date. The moving party #is/are responsible for all transportation and transportation costs to and from the parent who did not move for the first two years following the move. After the first two years following the relocation, the parents will equally divide the transportation costs. If either parent moves over 150 miles from the residence she/#he/she/they has when this agreement #is/are signed, the companionship schedule must be agreed upon by both parents. The parents will then attempt to agree on a revised companionship schedule for the child, but if they are unsuccessful they will then turn to a mutually selected mediator to resolve the issue, and only if mediation fails will they return to Court.

5. A Court order or written agreement of the parents #is/are required before a move of the child's residence out of Ohio #is/are permitted.

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### **Sample C –**

Each parent shall provide the other with written notice of any changes in his or her residence address, mailing address, email address, telephone numbers or other contact information as soon as any change is known. Should a parent intend to move the child's residence in a manner that would have an impact on the companionship and parenting time provisions as outlined herein, that parent shall notify the other at least 90 days in advance. After receiving the notice, the parents shall review the parenting agreement in order to reach agreements on modifications of their companionship schedules if necessitated by the move. If the parents are not able to agree, the parent agree to engage in mediation to resolve any impasses, and if unable to resolve those differences in mediation, the parent desiring to move shall file a motion with the court asking permission to relocate the residence of the child, and the child shall not be moved unless there is agreement between the parents until the court makes a decision.

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## 5. Canceled parenting time

### Sample A-

If a parent fails to arrive at the appointed time and fails to notify the other parent that he or she will be late, then the parent with the children need wait for only \_\_\_\_ minutes before considering the parenting time canceled.

If a parent is unable to exercise parenting time on a given occasion, he or she must notify the other parent at the earliest possible opportunity, and the time will be rescheduled within \_\_\_\_ weeks.

If the children are ill and unable to participate in the scheduled parenting time, the parent with physical possession of the children must give the other parent as much notice as possible, and provide a doctor's excuse.

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### Sample B –

**Illness.** If parenting time needs to be rescheduled due to illness, the parents agree that the missed time shall be made up the next available day if a weekday or the next available Saturday or Sunday if a weekend.

**Lateness** - The time schedule of the child should be observed strictly. The parents shall exercise common courtesy toward one another should either of them have to be late for a drop off time, and shall notify each other as soon as possible. A parent late more than fifteen minutes while the parents are meeting at a public place while the child is not yet of school age (thirty minutes when he is older) shall forfeit that parenting time period unless the parent notified the other that he/she was running late. The late parent should phone or send a text message, indicating the reason for the lateness and estimated new time or arrival.

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### Sample C –

Both parents understand that from time to time rescheduling of companionship will be essential and each agrees that such rescheduling shall be accomplished cooperatively prior to the time set for companionship.

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### Sample D –

#### Schedule Changes

A parent making a request for a change shall make the request #in person/by phone/in writing by text message/email/any method is acceptable.

A parent making a request for a change shall make the request as soon a possible, but in any event, no less than #24 hours/one week/two weeks/other before the change is to occur.

A parent receiving a request for a change shall respond as soon as possible, but in any event must respond within #24 hours/one week/two weeks/other after receiving the request.

A parent receiving a request shall respond #in person/by phone/in writing by text message/email/any method is acceptable.

A parent requesting a change of schedule shall be responsible for any additional child care or transportation costs resulting from the change.

If a parent fails to care for the child/ren during scheduled time that parent shall be responsible for finding alternative care for the child/ren.

If one of the parents must incur expenses to provide care for the child/ren when it is the responsibility of the other parent to do so, the parent initially responsible shall bear the expense of the alternative care.

## 6. Holidays

	Times (from when to when)	Every Year	Even Numbered Years	Odd Numbered Years
<b>Holidays</b>				
December 31 (New Year's Eve)				
January 1 (New Year's Day)				
Martin Luther King's Birthday (weekend)				
President's Day (Weekend)				
Spring Break, first half				
Spring Break, second half				
Mother's Day				
Memorial Day (weekend)				
Father's Day				
July 4th				
Summer Break:				
Labor Day (weekend)				
Columbus Day (weekend)				
Halloween				
Veterans Day				
Thanksgiving Day				
Thanksgiving weekend				
Winter Break				
Christmas Eve:				
Christmas Day:				
Child's birthday (date):				
Mother's birthday (date):				
Father's birthday (date):				

Other Parent's/Child's birthday ( <i>date</i> ):				
Other				

## 7. Vacations

### Sample A-

1. The parties agree that each party may enjoy out-of-town travel or vacation with the minor child during School Recess periods, upon two (2) weeks' advance written notice to the other party of intended travel. The parties further agree that the traveling parent will provide the non-traveling parent with a full travel itinerary and telephone number for contact while they are traveling. The traveling parent will endeavor to maintain telephone contact between the minor child and the non-traveling parent.

2. The parties will coordinate and facilitate the execution of any necessary travel documents/passports for the child and will facilitate the transfer and access to such documents between the parties.

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### Sample B –

**Summer Break:** Summer Break is defined as the period between the last day of school at the end of the school year until the day school starts again in the Fall. Each parent shall have one week (7 consecutive overnights) of uninterrupted parenting time each month in July and August. If the parents do not agree in writing (signed by both parents) on their summer parenting time, it shall be exercised as follows: The parenting time for #Mother/Father shall begin the second Sunday in July and August at 6PM and continue until the following Sunday at 6PM. The parenting time for the #Mother/Father shall begin the third Sunday in July and August at 6PM and continue until the following Sunday at 6PM.

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### Sample C –

Every effort will be made to determine the dates of vacation by mutual agreement of the parents by May 15. Mother will have first choice of dates in even-numbered years and Father will have first choice of dates in odd-numbered years. The first-choice parent will make his/her choice of vacation weeks known by May 1, and the second-choice parent will respond within 14 days with his/her choice of vacation weeks.

Summer vacation shall end before the five (5) days immediately preceding the start of school, and the school year calendar (paragraph 1 above) shall resume

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#### **Sample D –**

##### **Summer Schedule:**

The Summer Schedule, also referred to as the Vacation Schedule, is defined as 4:00 p.m. on the Sunday after school lets out and lasting for eight (8) weeks (regardless of when school actually resumes). The parties will alternate their time with the children on a week on/week off schedule. The exchange will be at the home of the parent who is ending their time with the children. In odd-number years Father will have the children for weeks 1, 3, 5, and 7; Mother will have the children for weeks 2, 4, 6 and 8. The opposite schedule will apply in even-numbered years.

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#### **Sample E –**

Name Child will live with Mother from one week after school is finished for the 2016 – 2017 school term until two weeks before the 2017-2018 school year begins in Father's school district, at which time Name Child will return to Father's residence for the school year.

Name Child will return to Mother's residence for all of the 2018 winter break and Father will have all of 2018 spring break. Name Child will return to Mother's residence for the 2018 summer break, beginning one week after school is finished until two weeks before the 2018-2019 school year begins in Father's district.

Every year thereafter, Name Child will live with Mother beginning one week after school is finished for the summer until two weeks before school begins again in the fall in Father's school district.

Mother and Father will alternate parenting time with Name Child during her spring breaks and winter breaks so that each parent has one of these holiday periods with the child every school year. If the parents cannot otherwise agree, for Spring Break Name Child will be with Mother in odd-numbered years and with Father in even-numbered years, and for Winter Break she will be with Mother in odd-numbered years and with Father in even-numbered years.

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#### **Sample F -**

The children's summer parenting time with Father will be from the Sunday after baseball season, including tournaments, ends (if Father attends a game that falls on the last Sunday of

the season, then the children shall depart with him) until seven (7) days prior to the day when the children's school reconvenes. Father's time shall be scheduled via Our Family Wizard.

During Father's summer parenting time, Mother shall have one week or seven consecutive days with the children, and Mother shall notify Father not less than seven days after Father's summer parenting time is determined of the dates of her intended week of parenting time via Our Family Wizard.

If the children no longer participate in baseball, Father's summer parenting time commences on the Sunday immediately after school recesses for the summer for three (3) consecutive weeks. Mother shall have one week or seven (7) uninterrupted days of parenting time. At the conclusion of Mother's seven days, Father shall continue his summer parenting time for three (3) additional continuous weeks.

Once the children no longer participate in baseball, it is considered a change of circumstance which entitles the parties to mediate an alternate summer parenting schedule. In this paragraph and the preceding paragraph, "baseball" means the NAME league in which the children are currently participating, or a school team.

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### **Sample G –**

A single week of vacation is intended to include the weekend that would normally be spent with the vacationing parent. Two consecutive weeks of vacation will necessarily have an impact on the other parent's weekend. Vacation weeks are to be taken in seven-day segments, and not more than 14 days at a time, unless the parents agree otherwise. Neither parent may schedule vacation over a holiday that would ordinarily be allocated to the other parent per the schedule above.

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### **Sample H –**

- a. Each parent may have the #child/children for \_\_\_\_ weeks of vacation during summer break from school. A parent intending to exercise vacation must notify the other parent or party in writing of vacation plans a minimum of (*specify number*) days in advance and provide the other parent or party with a basic itinerary that includes dates of leaving and returning, destinations, flight information, and telephone numbers for emergency purposes.
- b. The other parent or party has \_\_\_\_ days to respond if there is a problem with the vacation schedule. If the parents cannot agree on the

vacation plans, they

1. They must confer to try to resolve any disagreement before filing for a court hearing.
  2. In even-numbered years, the parties will follow the suggestions of \_\_\_[Parent] for resolving the disagreement, and in odd-numbered years, the parties will follow the suggestions of \_\_\_[Parent] for resolving the disagreement.
- c. This vacation may be outside the state of Ohio. Any vacation outside of #Ohio/the United States requires prior written consent of the other parent or a court order.
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### **Sample I –**

Divided summer:

#Father/Mother shall have the child/ren from one week after school is out until July 15th and #Father/Mother shall have the children from July 15th until #one week/two weeks before school starts. The other parent shall have reasonable parental times arranged between the parents during the summer.

#Father/Mother shall have the child/ren from the day after school is out until (date) and # Father/Mother shall have the children from (date) until the day before school starts. The other parent shall have specified times of access arranged between the parents during the summer as follows: #Father/Mother shall have the child/ren from one week after school is out until (date) and #Father/Mother shall have the child/ren from (date) until one week before school starts. The other parent shall have the child/ren every week from night at \_pm to \_\_\_\_ morning at\_\_.

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## 8. Decision-making

### Sample A- Healthcare Decision-Making and Authority.

1. No matter which parent the #child is/children are to reside at any particular point in time, each parent is the "residential parent", the "residential parent and legal custodian," or the "custodial parent" of the #child/children at all points in time. Both or either of the parents has full authority to authorize emergency, non-elective, medical treatment for the #child/children.
2. Mother and Father shall both be responsible to see that the #child/children #receives/receive proper medical and dental care throughout #his/her/their minority. #Father/Mother/Both parents shall have the primary responsibility to see that the #child/children #receives/receive regular physical exams, dental check-ups and such medical care, if any, as may be appropriate or recommended by any of the #child's/children's treating physicians.
3. Mother and Father shall each be responsible for appropriate treatment of any illness that may arise while the #child/children #is/are residing with either of them, it being the intention of the parents that any such treatment shall be the primary responsibility of the parent with whom the #child/children #is/are residing when the condition requiring such treatment arises, and that the parent must notify the other parent as soon as possible regarding the illness.
4. Healthcare Professionals. The parents agree to continue to use such medical, dental and other professionals as the #child/children #has/have been seeing unless there is a change in hospitalization coverage, which would necessitate the use of healthcare providers under the plan of hospitalization. In the event any change in medical or dental providers is necessary, the parents agree to consult with each other prior to arranging for alternative medical or dental care. The parties continue to jointly choose the medical and dental providers, but in the case of an impasse, the parent providing the insurance coverage shall be the tiebreaker.
5. Decision-making.
  - i. The parents shall consult on decisions concerning health and medical care, and shall endeavor to reach mutual agreement on major healthcare decisions.
  - ii. Non-emergency or elective professional treatment shall only be obtained upon the agreement by the parents as the need arises, and each parent has the right to have a physician examine the #child/children for a second opinion .If the parents cannot reach an agreement, after good faith attempts and obtaining second opinions, the parents agree to be guided by the healthcare professionals serving their #child/children.
  - iii. In the case of an emergency (defined as a sudden or unexpected occurrence), each parent shall, at all times, have the right as determined in their sole discretion, to consent to emergency medical or dental treatment. However, the parent shall make every reasonable effort to contact and consult with the other parent prior to taking such action or as soon as

practical, but in any event, within 24 hours.

- iv. The parents agree that the following decisions are also major decisions: the decision to authorize or not to authorize invasive elective medical procedures other than routine vaccinations or medications; the decision to authorize or not to authorize long-term elective health care procedures such as orthodontia or psychotherapy; and the decision to engage or disengage from long-term medication regimens.
6. If a child is prescribed medication, each parent shall administer such medication according to the physician's direction, and each will provide the medication when #he/she travels to the home of the other parent, with copies of any written instructions on needed care.

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### **Sample B –**

The parents, after giving due consideration to all relevant factors, believe that it is in the best interests of their unemancipated child/ren that the parents have shared decision-making responsibility for major decisions that affect the child/ren.

Each parent shall make decisions regarding the day-to-day care and control of the child/ren while the child/ren is/are with that parent. Either parent may make emergency decisions affecting the health or safety of the child/ren who is/are currently with that parent.

The parents shall confer with each other and share decision-making authority with a view toward arriving at major decisions that promote the best interest of their child/ren.

Neither parent shall unreasonably withhold consent in making such joint decisions nor shall either parent make a major change in the child/ren's situation without agreement of the other parent. The parents wish to designate one party to make specific decisions. These decision-making areas shall be listed below.

The parents understand that a failure to agree permits either of them to initiate the dispute resolution measures agreed to by the parents in this Parenting Plan.

The parents agree that it is in the best interest of the child/ren that #Mother/Father will have sole authority to make major decisions for the child/ren for [LIST], AND THAT that #Mother/Father will have sole authority to make major decisions for the child/ren for [LIST]. All other major decisions shall be made jointly.

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### **Sample C –**

The parents understand and confer that "shared parenting" means the condition under which both parents share "legal custody" and neither parent's rights are superior, except with respect to specified decisions as set forth by the Court or the parents in the final judgment or Order adopting this shared parenting plan.

Because both parents are the "residential parent and legal custodian" of the child/ren at all points in time, each has the power and duty to authorize necessary medical, surgical, hospital, dental, institutional or psychiatric care for the child/ren and the right to give or withhold consent



for the child to marry.

Shared parenting is the legal status conferring the right and duty to protect, train and discipline the child/ren, and to provide food, shelter, legal services, education and ordinary medical and dental care, subject to any existing parental rights and responsibilities on the provision of any court order.

"Major decisions," as include but are not limited to decisions regarding consent to marry, consent to enter military service, consent to obtain a motor vehicle operator's license, authorization for non-emergency health care, and choice of school and religion.

The parents agree that the following decisions are also major decisions: the choice of child care and health care providers; the decision to authorize or not to authorize invasive elective medical procedures other than routine vaccinations or medications; the decision to authorize or not to authorize long-term elective health care procedures such as orthodontia or psychotherapy; the decision to hold back or accelerate a child's school placement; and decisions regarding a child's participation in sports teams, music lessons, dance lessons, and other extracurricular activities.

The parents shall consult and shall attempt to reach agreement with respect to major decisions affecting the life/lives of their children. If they are unable to reach agreement after a reasonable effort to discuss and negotiate a disputed decision, the parents shall seek mediation services with an agreed upon mediator. NAME shall have the responsibility to make the [interim decisions pending mediation.

The parents understand the need for continuity, predictability and stability in the lives of their children. In order to achieve this, the parent having physical placement of the minor child/ren shall have the routine daily responsibility to make those decisions which are necessary in the natural course of caring for the children, consistent with the major decisions made by a person having legal custody/by NAME/ as set forth in this Agreement.

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### Sample D –

Type of Major Decision	Joint <i>(parents make these decisions together)</i>	Sole <i>(only the parent named below has authority to make these decisions)</i>
School / Educational	<input type="checkbox"/>	<input type="checkbox"/> (Name):
Health care (not emergency)	<input type="checkbox"/>	<input type="checkbox"/> (Name):
Other:	<input type="checkbox"/>	<input type="checkbox"/> (Name):
Other:	<input type="checkbox"/>	<input type="checkbox"/> (Name):
Other:	<input type="checkbox"/>	<input type="checkbox"/> (Name):