

APPENDIX 2

SLR 8.085 (3)

PARENTING PLANS AND NON-CUSTODIAL PARENTING TIME SCHEDULES

(1) INTRODUCTION

The Twenty-Fifth Judicial District recognizes that both parents are an important part of their child's growth and development. Therefore, the terms "custodial parent" and "non-custodial parent", in reference to these Local Rules, are to be read with the idea and belief that each parent should be afforded the opportunity to play an active role in the child's life and that each child should be assured frequent and consistent contact with parents who have shown their ability to act in the child's best interest.

The purpose of these guidelines is to provide a schedule for parents who have not established another schedule. Parents are encouraged to be flexible and to consider their child's best interests in arranging additional parenting time. The Twenty-fifth Judicial District may be able to provide mediation services to assist parents in resolving conflicts regarding custody and parenting time upon the request of a party.

(2) DEFINITIONS

“Child” includes all minor children referred to in the pleadings.

“Custodial Parent” refers to the parent awarded sole custody, or if joint custody is awarded, it refers to the person designated as providing the primary physical residence in the Judgment.

“Non-custodial Parent” refers to the parent who is not the custodial parent as defined above.

“Joint Custody” is a form of legal custody providing that the parents have shared authority to make all major decisions concerning the child. Parents who agree on joint custody could, for example, decide that the child will live with one parent for more time than with the other parent. However, if they did so, both parents would still have to agree on significant decisions affecting the child. **IF PARENTS CANNOT AGREE ON JOINT CUSTODY AND HOW JOINT CUSTODY ARRANGEMENTS WILL WORK, THE COURT WILL NOT ORDER JOINT CUSTODY.**

(3) SPECIFIC PARENTING TIME PROVISIONS:

(a) WEEKEND VISITATION SCHEDULE:

(1) The non-custodial parent shall have the child every other weekend, beginning on Friday night at 7:00 p.m. and ending on Sunday night at 7:00 p.m. By written agreement, the non-custodial parent's parenting time may end at 7:00 p.m. on Sunday or such other time as the parties may agree.

(2) If the non-custodial parent has the child on his/her alternate weekend, and if the following Monday is a recognized holiday or non-school day which is not listed below, then the non-custodial parent's parenting time shall commence at 7:00 p.m. on Friday and end at 7:00 p.m. on Monday (the recognized holiday or non-school day).

(3) The alternate weekend parenting time schedule shall rotate each year as follows: In all even-numbered years, the non-custodial parent's first weekend visit shall begin at 7:00 p.m. on the first Friday after New Year's Day. In all odd-numbered years, the non-custodial parent's first weekend shall begin the second Friday following New Year's Day.

(b) WEEKDAY VISITATION SCHEDULE

(1) The non-custodial parent shall be able to have parenting time with his/her child every other Wednesday. If the child is in school, the non-custodial parent shall have time with the child on Wednesday from 5:00 p.m. until 8:00 p.m. If the child is not in school, the time shall begin at 10:00 a.m. and end at 7:30 p.m.

(2) The first alternate Wednesday parenting time period of the New Year shall follow the non-custodial parent's first weekend parenting time in a given new year.

(c) WINTER VACATION SCHEDULE

(1) In all even-numbered years, the non-custodial parent shall have the child beginning at 7:00 p.m. on the day that school adjourns until 10:00 a.m. on December 25 of each year; the custodial parent shall have the child for the remainder of the child's winter vacation.

(2) In all odd-numbered years, the custodial parent shall have the child beginning at 7:00 p.m. on the day that school adjourns until 10:00 a.m. on December 25 of each year; the non-custodial parent shall have the child for the remainder of the child's winter vacation until 7:00 p.m. the day before school resumes.

(3) The alternate weekend parenting time schedule and alternate Wednesday parenting time shall not apply during the winter vacation period.

(d) SUMMER PARENTING TIME

Unless otherwise agreed upon by the parties in writing, summer parenting time for the non-custodial parent shall be divided into three (3) blocks of time; each block shall consist of a two (2) weeks (i.e., 14 days subject to remaining vacation time), as outlined below. When the child reaches the age of 8 years, the summer parenting time shall be six consecutive weeks provided, however, that the court can continue the three two-week block of time if deemed appropriate. (In appendix 2 there are suggestions for special age

related provisions. If you feel any provision is appropriate you will need to have the court order address these concerns).

(1) Three (3) two (2) week visitation schedule in *even numbered* years (unless otherwise agreed upon by the parties):

(a) The non-custodial parent's first two week block of time shall begin at 7:00 p.m. on the *first Friday* following the day school adjourns and shall end at 7:00 p.m. two weeks later;

(b) The custodial parent's first two week block of time shall begin at 7:00 p.m. on the *third Friday* after school adjourns and end at 7:00 p.m. two weeks later;

(c) The non-custodial parent shall then have the child for the next two week period. Once those two weeks are up, the child will once again go back to the custodial parent's residence and so on.

(d) The alternate weekend parenting time schedule and alternate Wednesday parenting time shall not apply during this extended summer vacation period.

(e) The Summer visitation schedule will end at 7:00 p.m. on the sixth day before school resumes and regular weekend visitation will resume the second Friday after the children are returned.

(2) Three (3) two (2) week visitation schedule in *odd numbered* years (unless otherwise agreed upon by the parents):

(a) The custodial parent's first two week block of time shall begin at 7:00 p.m. on the *first Friday* after school adjourns and end at 7:00 p.m. two weeks later;

(b) The non-custodial parent's first two week block of time shall begin at 7:00 p.m. on the *third Friday* after school adjourns and end at 7:00 p.m. two weeks later;

(c) The custodial parent shall then have the child for the next two week period. Once those two weeks are up, the child will once again go back to the non-custodial parent's residence and so on.

(d) The alternate weekend parenting time schedule and alternate Wednesday parenting time shall not apply during the summer vacation period.

(e) The Summer visitation schedule will end at 7:00 p.m. on the sixth day before school resumes and regular weekend visitation will commence the second Friday after the children return.

(3) Six-week Summer Parenting Time. Before May 1 of each year, the non-custodial parent shall select and notify the custodial parent in writing of the inclusive dates of the summer parenting time period which the non-custodial chooses to have with the child. The custodial parent shall have the child for the rest of the summer subject to the non-custodial parent's "alternate weekends", provided, however, that the custodial parent shall have the right to keep the child for two uninterrupted weeks during the custodial parent's one-half of the summer which will result in the non-custodial parent losing one "alternate weekend". There shall be no alternate Wednesday visits during the summer. The custodial parent shall have "alternate weekend" visits with the child during the non-custodial parent's six week visit provided, however, that the non-custodial parent shall have the right to keep the child for two uninterrupted weeks during non-custodial parent's six-week period which will result in the custodial parent losing one "alternate weekend" period. Such interim parenting time by the custodial parent shall not lengthen the six-week summer parenting time period allowed to the non-custodial parent. The six week summer parenting time period shall not end later than 7:00 p.m. on the sixth day before school resumes. If the non-custodial parent fails to give written notice to the custodial parent before May 1 of the year of the summer parenting time, the non-custodial parent nevertheless shall have the right to such summer parenting time with the child after giving two weeks' written notice to the custodial parent, if and to the extent the time remains for such summer parenting time; provided, however, that the custodial parent shall have the right to choose the inclusive dates for such summer parenting time.

(D) LONG DISTANCE PARENTING TIME.

Where the non-custodial parent lives more than 200 miles from the child the following shall apply:

(1) Extended Summer Parenting Time:

(a) *Newborn to less than three years of age:* Three one-week blocks with a break of at least one week between parenting time periods at any time during the year, excluding holidays to which the custodial parent is entitled. The non-custodial parent shall notify 90 days advance written notice to the custodial parent of the dates of each of the one-week blocks selected.

(b) *At least three years of age and less than six years of age:* Four weeks starting not less than one week and not more than five weeks after school ends. The custodial parent has the option of a weekend (7:00 p.m. Friday until 7:00 p.m. Sunday) after the first two weeks, in the general area of the non-custodial parent's residence.

(c) *Six years and older*: The non-custodial parent shall have all but two weeks of the child's summer school vacation, provided, the non-custodial parent's summer parenting time shall end not more than six days before school resumes. The custodial parent shall have a two-week period with the child either at the beginning of the summer or after the first one-half of the non-custodial parent's summer parenting time with the non-custodial parent. If the custodial parent chooses to have the two-week period after the first one-half of the non-custodial parent's summer parenting time, the custodial parent shall pay for all transportation costs incurred in transporting the child from the non-custodial parent's home to the custodial parent's home and back to the non-custodial parent's home. The six days before school resumes shall not be considered a part of the custodial parent's two weeks. The custodial parent shall by May 1 of each year provide written notice to the non-custodial parent of the dates selected for the custodial parent's two-week period with the child.

(2) Extended School Year Parenting Time:

(a) In even-numbered years:

Thanksgiving vacation: From Wednesday at the time school adjourns until the following Sunday.

Spring break: From the day after school adjourns until 6:00 pm on the day before school resumes.

(b) In odd-numbered years:

Christmas vacation: From the day after school adjourns until two days before school resumes.

(3) Extended Weekend/Non-school day Parenting Time: The non-custodial parent shall have the right to weekend parenting time or non-school day parenting time of not more than two weekends per month, excluding holidays to which the custodial parent is entitled, if he/she gives 30 days written notice to the custodial parent.

(4) Transportation: Transportation by plane, train or bus: If the non-custodial parent wants the child to travel by plane, train or bus, then the custodial parent shall deliver and pick up the child at the local international airport, train station or bus station. A child younger than five years shall not travel long distances unless accompanied by a parent or mutually agreed upon adult known to the child. Approval of a non-parent companion shall not be unreasonably withheld.//

(E) OTHER HOLIDAYS, EVENTS AND VACATION DAYS

The residential schedule for the child for the holidays, events and vacation days listed below is as follows:

Thanksgiving Vacation: Wednesday at 7:00 pm through the following Sunday at 7:00 pm.

Custodial parent - odd years

Non-custodial parent - even years

Halloween: October 31st at 5:30 p.m. through 9:00 p.m.

Custodial parent - even years

Non-custodial parent - odd years

Spring Vacation: Whether or not the child is in school, during the period of school spring vacation (measured from the day after school adjourns through the day before school resumes), commencing at 10:00 a.m. and ending at 7:00 p.m.

Custodial parent - even years

Non-custodial parent - odd years

Mother's Day: 10:00 a.m. through 7:00 p.m.

Always with mother

Father's Day: 10:00 a.m. through at 7:00 p.m.

Always with father

Fourth of July: With the parent whose summer schedule includes July 4th.

Child's Birthday: Five p.m. through 8:00 p.m. on a school day; 10:00 a.m. through 7:00 p.m. on a non-school day.

Custodial parent - even years

Non-custodial parent - odd years

Mother's Birthday: 5:00 p.m. through 8:00 p.m. on a school day; 10:00 a.m. through 7:00 p.m. on a non-school day. Always with mother, at mother's option.

Father's Birthday: 5:00 p.m. through 8:00 p.m. on a school day; 10:00 a.m. through 7:00 p.m. on a non-school day. Always with father, at father's option.

(4) GENERAL PROVISIONS

(a) *Personal Plans.* Personal plans of the custodial parent or child, (for example, school or church activities) will not be reasons for failing to follow the visitation schedule set forth in the court's order.

(b) *Addresses and telephone numbers.* Unless otherwise ordered by the court, both parents will provide home addresses and home telephone numbers to the other party. In the event the non-custodial parent is taking the child overnight out of the town of the non-

custodial parent's residence, the non-custodial parent shall notify the custodial parent of the location and telephone number, if any, of where the child will be sleeping.

(c) *Non-assigned time.* Unless otherwise agreed, in writing, the custodial parent is responsible for the child during all times not awarded to non-custodial parent.

(d) *Delivery and Pick-up.* All visitations shall be exercised in a prompt manner. Unless otherwise agreed, or court ordered, pickup and delivery shall occur no more than 15 minutes before or 15 minutes after the time specified for visitation to begin and end. The non-custodial parent shall pick up the child at the beginning of the visit and the custodial parent shall pick up the child at the end of the visit. The custodial parent shall have the child fed and ready on time for the non-custodial parent's parenting time with sufficient clothing packed and ready for the visitation period. The non-custodial parent shall return all clothing and feed the child a meal before returning the child from the parenting time period.

(e) *No shows for scheduled Visitation and Make-ups.* Only medical reasons will be considered sufficient for postponement of parenting time with the non-custodial parent. If a child is ill and unable to be with the non-custodial parent during his/her parenting time, a makeup period shall occur on the following weekend. However, if the non-custodial parent fails to exercise his/her parenting time, there will be no makeup.

(f) *History of failure to exercise parenting time.* When there is a history where the non-custodial parent does not show up for a scheduled weekend parenting time (for example: one "no show" per month for 3 months), the custodial parent may take the following action: To write the non-custodial parent indicating that unless the non-custodial parent gives at least 3 days advance notice that he/she will exercise the scheduled weekend parenting time, the custodial parent will cancel the next following regularly scheduled parenting time.

Canceling the next regularly scheduled parenting time period should not be done lightly and should not be done by the custodial parent where, for example, there is no regular history of missed parenting time, or where the missed parenting time was due to an emergency situation such as health or emergency weather conditions.

(g) *Mutual Respect Toward the Other Parent.* Both parents shall not make bad, derogatory or otherwise unflattering comments about the other party or in any way attempt to diminish the love, respect and affection that the child has for the other parent.

(h) *Support of Non-Custodial Parent's Parenting Time.* The custodial parent shall encourage visitation with the child and the child shall not be permitted to determine whether the child wishes to visit the non-custodial parent unless agreed to, in writing, by both parents.

(i) *Access to Records and Events.* In addition to the parenting time schedule, unless otherwise specifically ordered by the court, the non-custodial parent shall have the right to visit with the child at school, attend the child's school activities (such as an open house

or sports activities), and have full access to school teachers and administrators for complete information about the child in school. ORS 107.154 also affirms additional rights in the non-custodial parent unless otherwise ordered by the court. Each parent shall be responsible for keeping themselves advised of the child's activities and events.

(j) *Conflicting Dates.* The holiday schedule takes precedence over the summer and alternating weekend schedule. Due to the holiday parenting time schedule set out in this Rule, there may be occasions when one or both of the parents will have the child in his or her home for three weekends in a row. This could happen because any holiday defined in this Rule shall replace the normal schedule for a given weekend or time period. In other words, some weekends in a year will be lost due to conflicting vacations and holidays.

(k) *Daily Care.* The parent with whom the child is staying will be responsible for daily care and will make necessary decisions regarding emergency medical or dental care. The non-custodial parent's rights to make daily care decisions does not include leaving a child unattended in violation of Oregon law, haircuts, permanents, or any substantial changes in the child's appearance (e.g., tattoos, ear piercing, etc.) unless authorized by the custodial parent.

(l) *Day care.* The non-custodial parent shall be responsible for arranging and paying for day care for the child during his or her parenting time periods.

(m) *Emergencies.* Each parent will immediately notify the other party of any emergency circumstances or substantial changes in the health or safety of the child.

(n) *Writing and telephoning.* The non-custodial parent shall, in addition to the visitation in this order, have the right to correspond with the child, and to telephone the child during reasonable hours without monitoring by custodial parent or anyone else. Unless otherwise agreed to between the parties, telephone calls between non-custodial parent and the child shall be limited to no more than 3 per week. The custodial parent shall also have similar rights during periods of non-custodial parent's parenting time. A child over the age of 12 shall have the right to initiate calls to the other parent during reasonable hours. Long distance calls are to be made collect unless other arrangements are made.

(o) *Decision Making.* The custodial parent is encouraged to consult with non-custodial parent regarding major decisions affecting the child; however, the custodial parent shall have full decision-making authority. Each parent shall exert his/her best effort to work cooperatively for the best interests of the child.

(p) *Non-custodial Parenting Time is Independent from Support.* Non-custodial parenting time is not dependent on payment of child support or on whether or not the other parent does or does not do other things not directly related to non-custodial parenting time.

(5) INVOLVEMENT AND FLEXIBILITY

The parenting time schedule should be construed and implemented in a manner which fosters the child's best interest by providing liberal, predictable, and wholesome time between the child and the non-custodial parent. While this schedule promotes stability for the child, each parent acknowledges that reasonable adjustments will be needed from time to time and that an element of flexibility will be required in administering this parenting time schedule. Each parent should be flexible in arranging dates and time with the child so important family events and the child's activities are maintained with minimal disruption or hard feelings. Each parent shall act reasonably in registering the child for activities keeping in mind that neither parent is entitled to require activities for the child which will take place during the other parent's time with the child. On the other hand, there are natural activities which occur (such as school, athletic, music and other programs) that, by their very nature, take place on the other parent's weekend or scheduled parenting time.

(a) Although neither parent is required to take a child to any activity, each parent is encouraged to use his or her best effort to keep the child involved in athletic events, school functions, lessons, birthday parties of friends, etc., even though those activities may fall during a parenting time period. To do otherwise would deprive the child of valuable growing opportunities.

(b) Each parent is encouraged to use a child's activity as an opportunity for that parent to participate with the child, meet the child's friends and other families and to have a quality experience with the child.

For further important suggestions and footnotes, see appendix 3.

APPENDIX 3

SLR 8.085(3)

SUGGESTIONS RELATING TO PARENTING TIME OF CHILDREN

The following suggestions are not binding unless adopted by court order.

If you feel there are activities of the child or parent's, physical, emotional, religious, transportation or work-related concerns, or that there are special needs related to the age of a child and you are unable to mutually resolve those concerns, then you will need to seek the court's assistance to deviate from this rule to address those concerns. For example, the Twenty-Fifth Judicial District Local Rules recognizes that parenting time guidelines should be based upon the needs of a growing child. Parents may wish to ask the Court to consider the age of the child suggestions if they are appropriate:

Infant, age less than 1: Frequent two to four hour visits, two or three days per week from custodial parent's home; also one additional afternoon or evening per week. Single overnight visitations, provided non-custodial parent has been actively involved in the caretaking role.

Toddler, age 1 to 3 ½: Four weekend days per month, plus one-half (½) day per week (4 to 6 hours). Overnight non-custodial parenting time, provided non-custodial parent has been actively involved in the caretaking role and/or is accompanied by an older child. During any visits of 7 days or more, the other parent should have a four hour mid-week period of time with the child.

Pre-school, age 3 ½ to 6: Alternate weekends from 7:00 p.m. Friday to 7:00 p.m. Sunday, plus either one non-overnight weekday per week during the afternoon or evening. Summer parenting time should be as per the Rule. During any non-custodial parenting time periods of 7 days or more the other parent should have a four hour mid-week period of time.

Early Elementary, age 6 to 9: Summer non-custodial parenting time should be as per the Rule. The parenting time schedule should be flexible enough to insure the children's participation in ongoing or special activities.

Later Elementary, age 10 and older: The minimum is the same as the early elementary. Flexible non-custodial parenting time is the basic principle, with the child(ren) having some input to avoid scheduling conflicts. At this age, it seems the quality of time is more important than the quantity but consideration should be given to the child's organized athletics and outside activities.

Smoking or drinking alcohol in the presence of the child: The parents should seek to agree as to whether neither parent should smoke in the presence of the child (or smoke in any manner so the child is breathing the smoke), especially if the child has asthma or

other respiratory issues, and whether neither parent should drink alcohol to the point where they are affected by the alcohol in the presence of the child.

The following are footnote examples or clarifications of application of the Standard Parenting Time Rule 8.085:

1. The non-custodial parent shall pick the child up from the custodial parent's home at 7:00 p.m. on alternating Fridays, and return the child to the custodial parent's home the following Sunday evening in accordance with the rule. However, if the Monday is a recognized holiday, such as Memorial Day, and the non-custodial parent had the child that weekend, then he/she shall have visitation with the child until 7:00 p.m. on the Memorial Day.

2. In the year 2009, New Year's Day falls on a Thursday. The non-custodial parent's first weekend parenting time would begin on the second Friday in January, which would be Friday, January 9, 2009.

3. If the non-custodial parent's first alternate weekend parenting time began on Friday, January 9, 2009, the second alternate weekend parenting time of the new year would commence two weeks later, on Friday, January 23, and end the following Sunday, and so on.

1st weekend: 7 p.m. on Friday, January 9, 2009, through 7 p.m. the following Sunday;

2nd weekend: 7 p.m. on Friday, January 23, 2009, through 7 p.m. the following Sunday;

3rd weekend: 7 p.m. on Friday, February 6, 2009, through 7 p.m. the following Sunday.

4. Using our example above, for the year 2009, if the non-custodial parent's first alternate weekend began on Friday, January 9, 2009, then the first alternate Wednesday parent time would be on January 14, and so on.

1st Wednesday time: Wednesday, January 14, 2009;

2nd Wednesday time: Wednesday, January 28, 2009;

3rd Wednesday time: Wednesday, February 11, 2009.

5. If the child is not school age, winter vacation shall be considered to begin on the day school would normally let out for the school district in which the child resides. For example, if the child would go back to school on January 5, 2009, the non-custodial parent's visit shall end at 7 p.m. on January 4th.

SAFETY CONCERNS

If you have safety concerns and feel that your situation requires additional protection for you or your child(ren), you may agree upon or ask the court to order any of the following additional or alternative provisions in your parenting plan.

Parenting classes, violence intervention or substance abuse evaluation/treatment. It is sometimes necessary to ask the court to require that parenting time be supervised until the other parent has completed a parenting course, undergone a substance abuse evaluation and treatment, or completed a violence intervention program (or come combination of these) before unsupervised parenting time can occur.

A. Completion of a parenting class prior to allowing unsupervised parenting time may be appropriate for either or both parents if a parent has abused or neglected the children or has disciplined them inappropriately, or if a parent is simply inexperienced in caring for children and as a result is unable to provide a safe, secure, nurturing environment for the child(ren).

EXAMPLE: “Father’s/Mother’s parenting time shall be supervised until he/she has completed the twelve week parenting course offered by _____ and has provided satisfactory documentation to the court of completion of the course.”

B. A substance abuse evaluation and treatment or a mental health evaluation should be requested whenever there is evidence that alcohol or illegal drug use by a parent, or untreated mental illness, threatens the safety of welfare of the child during parenting time.

EXAMPLE: “Father’s/Mother’s parenting time shall be supervised until he/she has undergone an alcohol/drug abuse evaluation and completed treatment is recommended, and submitted to the court satisfactory documentation from a qualified professional of the completion of the evaluation/treatment program”

IF YOU ARE REQUESTING SUPERVISED PARENTING TIME always specify WHO will supervise (it should not be the other parent) and WHERE the supervised visits will take place. There are few agencies who will provide supervision for a fee, if a family member or friend is not available to be the designated supervisor. To find out the names and locations of supervised visitation agencies, contact the local court-appointed domestic relations mediators or the court mediation coordinator.

Protection During Pick-up and Drop-off of Child(ren):

Presence of a third party: A provision can be included in the parenting plan to assure the safety of a parent during the exchange of the child(ren) at the beginning and end of parenting time.

EXAMPLE: “Mother/Father may designate a third party to pick up/return the children by giving advance written notice to the other parent.” Or,

“Mother/Father may be accompanied by a third party when the child(ren) are picked up/dropped off, and both parents shall refrain from antagonistic or threatening remarks or conduct directed toward the other parent or the third party.

Neutral exchange site: A provision can also be included to provide for a neutral drop-off and pick-up site so the parents don’t need to go to each other’s homes if problems are likely to arise there, or if one parent has shown good cause to not disclose his/her address to the other parent (see SLR 8.085(4)(b). Fast-food restaurants with play areas for children are popular sites in such situations.

EXAMPLE: “Mother/Father shall deliver the child(ren) at the beginning of parenting time and Mother/Father shall return the child(ren) at the end of parenting time, to [name of restaurant or other location].”

Telephone calls: If telephone calls to the children from someone who has previously been abusive toward the other parent is a problem, it may be appropriate to include in the parenting plan a requirement that the calls be placed at a specific time so that the children can answer the phone (see SLR 8.085(4) (n).

EXAMPLE: “Telephone calls from the non-custodial parent and the child or children shall be placed at _____ a.m. / p.m. on _____ so that the child is available to answer the phone.”

IF YOU HAVE A RESTRAINING ORDER TO PREVENT ABUSE. If a restraining order, sometimes called a FAPA order, limits contact between the parents, the restraining order may need to be modified to accommodate the terms of a parenting plan in a dissolution of marriage or custody judgment. Remember, the parenting time order in a dissolution of marriage/custody judgment supersedes the parenting time provision in the restraining order insofar as they are contradictory regarding parenting time. If you have a restraining order, be sure the court is aware of that before a dissolution of marriage or custody judgment is entered.