



Focus on Custody

It's All About What's Best for Your Kids

Q I know I'm the better parent. How do I prove that to the court?

Proving you are better parent to the court can be hard, especially if your co-parent is not truthful with the court. Keep a log of custodial exchanges and any other issues you encounter when trying to co-parent. Try to keep your communications with the other parent in writing. When preparing your case for the court, focus on the positive. Tell the court how the children behave in your custody and what things you are responsible for when it comes to taking care of them. Tell the court how often the children are with you. Your message comes across more clearly to the court if you focus on these positive aspects of custody, rather than speaking negatively about your co-parent or outwardly telling the court you are a better parent than your spouse. If you have logs and written communications to provide to the court, that will help prove your case without badmouthing the other parent. Most people going through a divorce believe they are the better parent to their children, and it is common for parties to speak negatively of each other to the court. If you have actual logs and written communications to provide to the court and are providing the court with facts regarding the kids' progress when they are with you, it will be easier for the court to understand that you are the party who is telling the truth.

Do the wishes of a child have any effect on custody decisions?

Whether a child's wishes about custody can be considered by a judge depends on the law of the state you're in. Many jurisdictions will take a child's opinion into consideration when determining custody. The weight of the child's opinion can depend on many factors, including his or her age. A child's opinion is not necessary for a custody decision.

Should I ask my child where he or she wants to live after the divorce?

You should not ask your child where he or she wants to live after the divorce. Although you want to make sure you are taking your child's opinions to heart, you have to balance that with ensuring that your child does not feel put in the middle of their parents' issues. It's hard enough for kids to understand their parents' divorce, let alone to understand how to choose between their parents. Additionally, children's opinions on where they should live may not be based on their best interests, but, rather, on who has the best house, who lets their friends stay overnight, who spends money on clothes and shoes, who doesn't ground them, etc. Where a child should live is a choice best left for the parents. The less the children are involved in the divorce conflict, the better.

Do I really have to discuss every detail about the kids with my ex?

Keeping the lines of communication open with your ex is extremely important. Each former couple works differently. If you have an ex who is a willing listener, send text message updates as needed. If he or she isn't as involved, send a weekly email. It is important to facilitate dialogue to make sure you are both looking out for your children's best interests. This is especially important to the court. If you look like you are unwilling to discuss things with your ex, the court could see you as the problem parent.

I'm supposed to "promote" my child's relationship with the other parent. How can I do that when I can't stand my ex?

Remember that your child comes first. Your child's relationship with your ex is separate from your relationship with your ex. Having a strong relationship with both parents (absent any extreme circumstances such as abuse or neglect) will only benefit your child in the future. Speak only positively about your ex in the presence of your child and make sure to encourage development of a good connection. Facilitate your ex's parenting time. If you have issues with your ex, talk to close friends or a therapist so that you have an outlet and you don't feel the need to bring these issues up while your child is within earshot.

How do I show that I have always been the primary caretaker of our child?

Instead of telling the court what your ex isn't doing, tell the court what you are responsible for doing. Details are key. Provide the court with details about your tasks for your child during the weekdays and weekends. Give the court details about the child's schedule. For example, say things like, "In the morning, I wake my child up at 7:00 a.m. I make him breakfast and pack his lunch for school. We all get ready and I drive child to school by 8:00 a.m. I pick up my child at 2:30 p.m. and drive him to baseball on Mondays and

Wednesdays and to soccer on Tuesdays and Thursdays. I usually run errands while he is at practice. I pick him up at 4:30 p.m. Once we get home, my son starts his homework and I start dinner. My ex usually gets home around 6:00 p.m. We eat dinner around 6:30 p.m. After dinner, my son and I play a game or watch a television program. My son gets ready for bed around 8:30 p.m. and is in bed by 9:00 p.m.” Provide the same details for the weekends.

It is best to provide as many details as you can to describe your duties as the primary parent. The court will consider who dresses the children, cooks for the children, drives the children, schedules things for the children, etc. The details are important, no matter how small. Speaking negatively about your ex will only distract the court from what you are trying to show.

Isn't a 50–50 time split the best way to be “fair” to both parents?

There is no one-size-fits-all parenting plan for all families. Each family is different, and what works for some may not work for others. The most important thing parents can do is decide what schedule works best for their child while still providing the child quality time with both parents. What is best for the parents is not the measure of what time split the family should consider. There are many factors the parents should think through—their work schedules, the child's schedule, and childcare, to name a few.

I'm the higher-earning parent. Isn't a 50–50 time split the best way to make sure I don't have to pay any child support?

Laws on child support differ from state to state. As a general rule, a 50–50 time split is not a guarantee that you won't pay child support. In California, if the time split is 50–50 and you are both earning the same amount of money each month, then it is likely you won't pay support. However, if there is any discrepancy in income, you likely will pay some support because your child is entitled to live at the lifestyle of the higher-earning parent.

We want to try a 50–50 time-sharing plan. What can we do to make it as easy as possible on the kids?

It is important for both parents to be on the same page about the time split and how it will work. It is important that both parents explain the schedule to the kids and make sure the kids know that both parents are going to work together to make the new schedule work. The parents can speak with the children together or separately, as long as they are translating the same message to the children. This transition has to be presented positively because the kids are already going through so much change because of the divorce. Both parents should have rooms set up for the kids in their new homes. These rooms should have a bed for each child, clothes, and other essentials each child will need. Both parents should try to maintain the kid's schedules while the kids are in their custody

(i.e., they should keep up with birthday parties, extra-curricular activities, games, school-related events, etc.).

I don't get to see my kids as often as I'd like. What can I do to make things easier on the kids?

- Call your children to chat once a day (depending on age, of course).
- Send emails (also depending on age).
- Keep a good relationship with your ex so that you can work on increasing your custodial time.
- Ask the other parent for weekly updates so that when you do see the kids, you are updated on what is going on in their lives.
- Make sure that the time you spend with them is quality time.

What are some common visitation arrangements?

Visitation arrangements are based on a number of factors, one of those being the age of the children. For example, a breast-feeding baby would likely have a different parenting plan than a teenager because children need such different things at those ages. Some common visitation arrangements are:

- **2–2–3 schedule:** Children spend two nights with one parent, two nights with the other, and alternating three-day weekends (Friday to Sunday).
- **Week on, week off schedule:** The children spend one week with one parent, one week with the other parent.
- **Weekend visitation:** The children spend weekdays with one parent and weekends with the other.
- **Mid-week visitation:** This is often combined with weekend visitation and includes one or two visits during the week. For example, if Dad has weekends, then the kids have one mid-week dinner on Wednesdays with Dad every week.
- **School-break visitation:** The children spend the school year with one parent and vacations from school with the other.
- **Holiday options:**
 - Dividing major holidays and alternating with the parent who has custodial time each year.
 - Spending Mother's Day with Mom and Father's Day with Dad.
 - Swapping weekends or holidays if schedules require it, without needing court intervention.

Parenting schedules can be created in whatever combination works best for the children.

What about access to grandchildren?

The laws on this issue differ from state to state. If one parent does not consent to grandparents having access to the children, it is nearly impossible for the grandparents to be granted visitation rights. In some states, the courts will consider what is in the children's best interests, and if visitation with the grandparents is considered in the children's best interests, the court could grant visitation. **FA**