

**BCBA FAMILY LAW
SECTION**

RAISING THE BAR

APRIL 23, 2021

**GENERAL MAGISTRATE
ANNETTE SZOROSY**

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ESQ.**

DRAFTING TIPS FOR MARITAL SETTLEMENT AGREEMENTS & PARENTING PLANS



**TOP 10 DRAFTING TIPS
FOR MARITAL SETTLEMENT
AGREEMENTS**



NUMBER ONE: KNOW YOUR CLIENT

Consider Family Traditions

Consider Religious Practices

- Religious divorce
- Religious preference



NUMBER TWO: CHILD SUPPORT STEP DOWNS

Step down for each child in Final Judgment

Recalculate child support based on alimony modifications

NUMBER THREE: EQUITABLE DISTRIBUTION

Attached Equitable Distribution Chart

- List each item by category

Equitable Distribution Payment

- Paid to attorney's trust account

NUMBER FOUR: QDRO LANGUAGE



IDENTIFY QDRO PREPARER IN
AGREEMENT



AGREE ON PAYOR OF QDRO



CONSIDER GAINS AND LOSSES
(INCLUSIVE OF CLIENT'S NON-
MARITAL PORTION)

NUMBER FIVE: ALIMONY



CAREFUL DRAFTING



MODIFIABLE / NON-
MODIFIABLE



TERMINATION
PROVISIONS



CONSIDER INCLUDING
INCOMES ON WHICH
SUPPORT IS BASED UPON

NUMBER SIX: HEALTH INSURANCE

- Health insurance limitations
Dissolution of Marriage is
entered
- COBRA benefits



NUMBER SEVEN: MEDIATION PROVISIONS

- Mediation provision to avoid future litigation costs

Except for enforcement actions, the parties shall attend Mediation within forty-five (45) days from the commencement of any action arising out of the Agreement.

NUMBER EIGHT: PREVAILING PARTY PROVISION

- Consider prevailing party provision to deter frivolous litigation in the future

DEFAULT OF THE AGREEMENT. If either party is required to seek Court intervention in order to enforce any of the provisions in this agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees, suit monies and costs.

NUMBER NINE: DEPENDENTS



Consider who is going to claim the children as dependents

- Rotating Schedule

Parent has to have at least 20% of overnights to claim child as dependent

NUMBER TEN: TAXES

- Joint or separate returns
- Decide on tax preparer if filing joint return
- Payment of Tax Return
- Payment of Taxes
- Refund
- Back taxes
- Indemnification provision

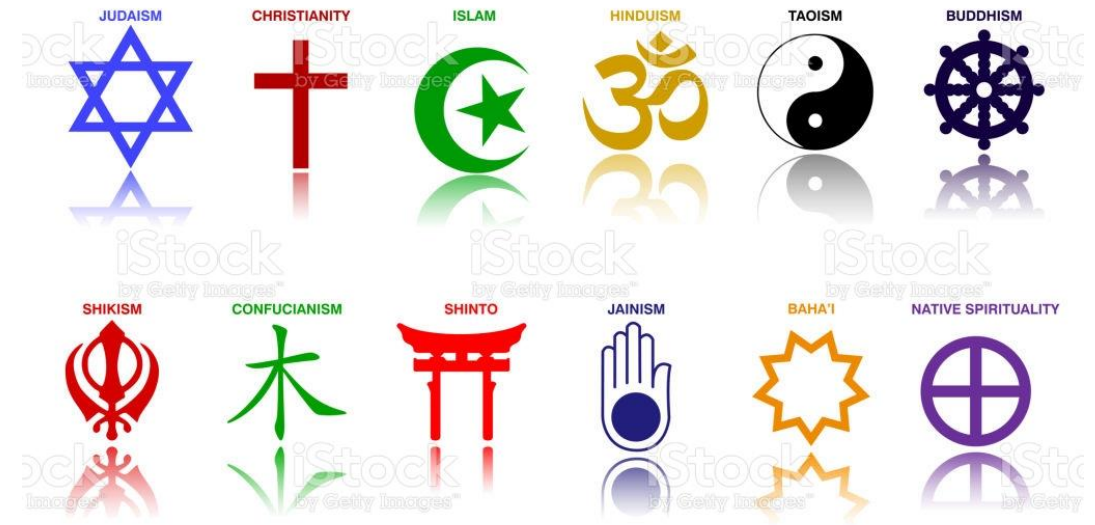


TOP 10 DRAFTING TIPS FOR PARENTING PLANS



NUMBER ONE: RELIGIOUS PRACTICES

- Tailor plan to your client
- Consider religious beliefs and practices
- Only your client knows what is best for their family



NUMBER TWO: PREPARATION

01

Do not wait until mediation to first show client parenting plan

02

Give to them after retained

03

Prepare! Prepare!
Prepare!

NUMBER THREE: BE SPECIFIC



Time exchanges for holidays

Thanksgiving, Christmas (Eve/Day), New Years (Eve/Day), Teacher Work Days, Rosh Hashana (First Night/Second Night)



Pickup and drop off locations & times when school not in session

NUMBER FOUR: PLAN FOR EMERGENCIES



Plan for
emergencies

- Hurricanes, Natural Disasters, Pandemic

Plan for the
unexpected

NUMBER FIVE: CHILD CARE PROVIDER

Define who is or
who is not a
child care
provider

Right of first
refusal provision

Agreement
regarding child
care providers

NUMBER SIX: BEWARE OF AMBIGUOUS LANGUAGE



Review draft carefully



Beware of inconsistent
or ambiguous language



Read out loud

NUMBER SEVEN: SUPREME COURT FORM



The form is a guide – it is not mandatory

Do NOT feel compelled to stick to the form

Number your pages

Have parents initial every page

NUMBER EIGHT: DO NOT INCLUDE CHILD CARE EXPENSES

Child support expenses are always modifiable

Day care ends as significant expense when child enters kindergarten or VPK

Parents should pay directly to their provider pro rata share

Tax deduction



NUMBER NINE: USE BLOCK CALENDAR TO SET OUT REGULAR SCHEDULE

2-2-3	MON	TUE	WED	THU	FRI	SAT	SUN
WEEK 1	MOM	MOM	DAD	DAD	MOM	MOM	MOM
WEEK 2	DAD	DAD	MOM	MOM	DAD	DAD	DAD
WEEK 3	MOM	MOM	DAD	DAD	MOM	MOM	MOM
WEEK 4	DAD	DAD	MOM	MOM	DAD	DAD	DAD

NUMBER TEN: SCHOOL CALENDAR



Download school calendar
applicable to case

Information is key

Knowledge is power

Knowing when spring break falls or
how many days off is critical

EXTRA CREDIT



Always have a Plan B

Prepare for the worst and what-ifs

Non-compliance

Fix language



Avoid marathon mediations

**Congratulations!
You made it to the
end!**

