

**Arizona Association of
Family and Conciliation Courts**

2011 Summit Project



**PARENTING COMMUNICATION
RESOURCES IN
HIGH-CONFLICT CASES**

Summit Project

The Arizona Chapter of the Association of Family and Conciliation Courts (AzAFCC) is an interdisciplinary organization comprised of mental health professionals, judicial officers, attorneys, academics, mediators and others engaged in the family law process. In meeting one of the Mission Statement objectives for the organization, the 2009-2010 Board of Directors of AzAFCC endorsed proceeding with an annual project designed to address a core issue that arises in the family law arena. The goal is to create a product that can then be utilized as a resource for those who confront the identified issues. The inaugural committee was tasked with the responsibility to address a specific issue and to develop an infrastructure for use by future Summit Project committees. The intended users of these resources are the professionals engaged in the family law arena. A supplemental version can later be created as a guide or resource for parents involved in custody related proceedings.

This material is for use as a resource. Some of the suggested methods of communication may not be appropriate in cases involving domestic violence. It is not to be viewed as a comprehensive or authoritative work, as carrying any legal weight, or as endorsed by any organization, entity, or institution, including the AFCC parent organization. The fact that the committee included policy makers and judicial officers does not suggest that it reflects the views of any particular individual or that the committee is acting on behalf of any organization, entity, or institution.

2010-11 AzAFCC Summit Committee

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Assumptions for Referral Issue

The proposals and suggestions contained in this booklet are based upon a set of underlying assumptions. Not all assumptions apply in every situation and the identified assumptions may operate in varying combinations. The tools and resources also may be used in situations that do not mirror the set of assumptions and thus may serve as a preventative measure for other families involved in the family law arena. The concepts developed may be employed in concert with co-parenting and parallel parenting counseling and are not to be viewed as a substitute for the creation of a functioning parenting environment.

The eight identified assumptions are as follows:

1. The parents are not living together and are divorcing, divorced, or were never married.
2. Initial or modified custody or parenting time orders exist or can be sought, whether in or outside of the court system, or there are or could be enforcement proceedings.
3. The dynamics of the interpersonal relationship indicate past or future communication issues and hostility or disparate views between the parents.
4. The communication and interaction issues between the parents cannot be resolved through the legal custody designation.
5. The interpersonal hostility and unresolved conflicts have or likely will negatively impact the children.
6. The creation of an effective co-parenting environment has not been successful or may not be likely, and a parallel parenting environment may be necessary.
7. The identified conflicts could arise from or involve third parties such as step-parents, significant others, or grandparents.
8. The logistics of the parenting plan require some level of coordination between the parents, exchange of information, or interaction regarding child-related issues.

Illustrative Example

Solely for the purpose of illustration, consider the following example of dysfunctional communication between parents which is detrimental to children:

Mother and Father have one child, who just turned five. The parents have joint legal custody with a week-on/week-off parenting schedule. The parents do not communicate with one another in a meaningful manner.

The child is scheduled to start kindergarten in August and the school district requires the child to be immunized before starting school. During Father's assigned week in late July, he takes the child to his selected pediatrician and has the child vaccinated. He does not inform Mother but has the immunization information forwarded to the school. During Mother's next assigned week, she takes the child to her selected pediatrician and has the child vaccinated again. She does not inform Father but has the immunization information forwarded to the school. When school starts, the school nurse realizes that the child was vaccinated twice.



Putting aside the debate as to the propriety of vaccinating young children, double vaccinations in close proximity are clearly not in the child's best interest. Arguably, this lack of communication between the parents resulted in child endangerment, even though neither parent intended to harm the child.

COMMUNICATION TOOLS

Information Exchanges

On a regular and ongoing basis, parents need to exchange information that impacts the children. Many disputes arise from failure to provide timely, complete, and accurate information in an effective manner. Even when orders limit contact between parents, parents need to exchange information regularly in a way that is consistent with those orders. Here are three examples of effective ways to exchange parenting information:

1. The “Child News Report”



The “Child News Report” is a regular structured, and concise exchange of information relating to or impacting a child. Parents in conflict routinely differ as to whether the other parent is entitled to certain information. The appropriate standard to be implemented is “The Golden Rule,” meaning that a parent should provide information that he or she would expect to be provided from the other parent. Depending on the age of the child, information to be exchanged may vary. In summary, the purpose of the “Child News Report” is designed to ensure that parents exchange basic information, similar to the way a progress report provides basic information between a teacher and parent.

An example of the order requiring a “Child News Report” is set forth in Addendum 1.

2. The “Twelve-Month Calendar”

Factors that impact the parenting plan include:

- (a) parenting time ordered by the Court or agreed to between the parties, including holiday schedules;
- (b) summer or travel schedule;
- (c) school schedules and extra-curricular activities;
- (d) special or unanticipated events; and
- (e) illness or other issues that impact child availability.



Many issues can be addressed through specificity in the parenting plan. Specificity cannot, however, anticipate all issues.



Maintaining a child-centered calendar can reduce conflict. The Court can require the parents to secure either an annual or academic-year calendar. For school-age children, an academic-year calendar may be best. One or both parents should be responsible for completing the calendar.

The assigned parent will calendar the regular parenting time schedule, the holiday schedule, school breaks, vacation plans, and any other events reflected in the parenting plan. This works best when a deadline is set for forwarding the completed calendar to the other parent. By a designated date, the other parent should review the calendar, make entries as to any possible conflicts or disputes, and return it to the parent who drafted the calendar. At a minimum, this calendaring system will resolve disputes well in advance of the anticipated event. When the parents finalize the calendar for the upcoming twelve months, both should approve the calendar in writing and each should retain a copy. The parents can use the approved calendars throughout the year to confirm dates and make changes to the parenting schedule, as needed.

An example of the order requiring the “Twelve-Month Calendar” is set forth in Addendum 2.

3. “Not On My Time” Issues: Supplemental Guidelines for Scheduling Conflicts

Scheduling issues arise throughout the year for all families. However, in some families, there is typically a lack of cooperation or communication that would allow for necessary adjustments. Some of these issues can be addressed through the “Child News Report” and “Twelve Month Calendar” above, but may also be addressed through supplemental guidelines.

Even under the most comprehensive parenting plan, scheduling or time-related issues will arise but may not be detailed in the plan. These conflicts include family events, religious or school events, extra-curricular activities, and social events. Providing guidance for addressing these issues is imperative because it is impossible to provide specificity in advance for all potential scheduling conflicts.



The final plan should distinguish between activities or events that impact the assigned parent’s time versus the other parent’s time. If the event or activity does not impact the parenting schedule, notice to the other parent is likely sufficient. This notice could include an itinerary or other details. Generally, parents have the right to know about significant events that impact the child, regardless of the fact that these events do not impact the other parent’s parenting time.

Even though a detailed parenting plan can typically avoid problems, flexibility and accommodation are necessary. If the event or activity impacts the other parent’s parenting time, the parents should confer as soon as the potential conflict becomes known.



An example of the order requiring supplemental guidelines is set forth in Addendum 3.

Education-related Matters

To prevent or reduce conflict, specific guidelines for communication regarding educational issues are needed. Each parent should contact the school directly to create his or her own line of communication to secure progress reports,

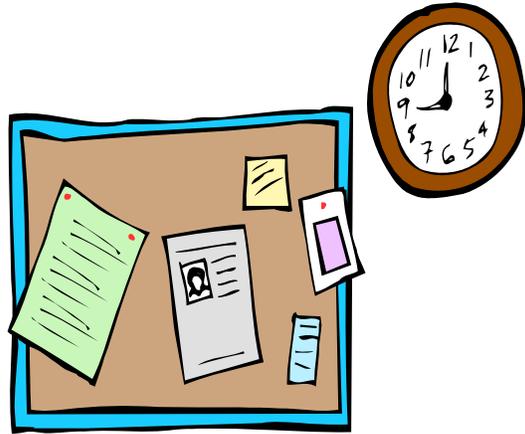


disclosure of school schedules or events, and other information that a parent is entitled to receive from or provide to a school. However, certain circumstances may arise requiring parents to notify each other regarding education-related matters.

Unless restricted by court order, examples of such guidelines include:

- Each parent is entitled to information including school name, address, phone number, and e-mail contact information.
- All enrollment or official records for school must include identification and contact information of both parents, even if other individuals are also identified in emergency contact or other forms.
- If the school requires the child to maintain a day planner or its equivalent for assignments and schedules, each parent must have access to that document when the child is in his or her care.

- If the child's educational information is available online, each parent is entitled to the child's log-in information.
- If one parent receives a notice regarding significant school assignments, important academic deadlines, or school activities that extend into the other parent's time, the parent receiving the notice is responsible for providing in a timely fashion the information to the other parent.



- If one parent receives information from the school regarding illness, discipline, behavioral, academic, or attendance issues, the parent receiving the information is responsible for providing in a timely fashion the information to the other parent.



- If the child receives services, such as through an Individual Education Plan (IEP) or an Individual Service Plan (ISP), both parents are entitled to receive information, and attend meetings relating to the services.

Health Care-related Matters

There are a myriad of issues that can arise for a child involving physical and mental/behavioral health. Parents who do not work collaboratively can make decisions or proceed in a fashion that will compromise or even jeopardize the child's well-being. The following are examples of health care-related matters that can be addressed through a structured plan:



1. "Continuity of Care"

In general, continuity in medical care or treatment is in a child's best interests. Therefore, current treating professionals presumptively shall continue to provide health care services for the child. A change in treating professionals may occur if there are changed circumstances (such as a move or changes in insurance coverage), or the parents otherwise agree.

2. "The Medical Clearinghouse"

For children, the family physician or pediatrician usually serves as a medical case manager. However, there are circumstances when other professionals may become involved. If a child is referred to a specialist, the specialist will generally report back to the primary health care provider. In other circumstances, this information exchange may not be part of normal protocol. Examples include a child being seen at an emergency department, urgent care center, or parents utilizing two different primary care providers (such as in the long distance parenting plan cases). In these circumstances, it is critical that the parenting plan or order include language that affirmatively requires the parent securing the outside care to request that the health care provider forward a consultation report to the primary care provider.

3. “Don’t Touch My Healthcare”



In high conflict cases, the parent maintaining insurance coverage for the child may choose to restrict the other parent from having coverage information. This is contrary to a child’s best interest. The parent maintaining coverage for the child should

provide at least the following to the other parent:

- Name and address of insurance provider
- Policy and group ID numbers
- Contact phone information for confirmation of coverage or authorization
- Policy provisions such as through a policy booklet
- Insurance ID card



4. “According to the doctor,…”

Medical instructions from a treating professional regarding an illness, injury, or treatment plan must be exchanged between parents. The parent receiving the information or instructions should disclose of at least the following to the other parent:



- Prescription information, instructions and possible side-effects
- Treatment plan
- Warnings and symptoms
- Diagnosis
- Follow-up care and appointments



5. "The doctor will see you."



While there are legitimate reasons why both parents may insist on being present at health care appointments, there is the risk that high-conflict parents may use the health care office as a forum for disputes. Both parents being present may often create issues at the treating professional's office, leading at times to restrictions placed by the office or termination of service, all of which is contrary to the child's best interests. Therefore, the parenting plan should place an affirmative obligation on both parents to behave appropriately when attending jointly any health care appointments for the child or to schedule separate appointments with the child's treating professional.

6. "I want a second opinion."

If a parent obtains a second opinion from a health care professional without involving the other parent in the consultation, an opinion based on incomplete information may be rendered by the second-opinion professional, leading to what would appear to be competing opinions contrary to the child's best interest. If a parent intends to seek a second opinion that is not restricted by court order, conflict may be mitigated by including the following in the parenting plan:



- If either parent wishes to secure a second opinion, that parent is required to provide notice to the other parent.
- The parent seeking the second opinion may select the professional at his/her expense (less any insurance coverage) after providing notice and disclosure to the other parent.

- An appointment for the child to be seen by the second-opinion professional may be set by the requesting parent but the other parent shall have the opportunity to attend or consult separately with the second-opinion professional.
- The second-opinion professional shall be provided with all relevant records that address the health care issue of the child.
- If the child is seen by the second-opinion professional, invasive procedures shall be addressed with both parents before the procedure is implemented.
- The second-opinion professional should be encouraged to confer with the diagnosing professional and the primary health care provider.
- The issuance of a second opinion should be in writing, provided to both parents, and forwarded to the diagnosing professional and the primary health care provider.



7. “What’s your emergency?”

Each parent is entitled to timely notice of any emergency or urgent medical or health care related issue affecting the child. The parent tending to the emergency must notify the other parent within a specified time period, such as two hours. At a minimum, the notice should include the following:



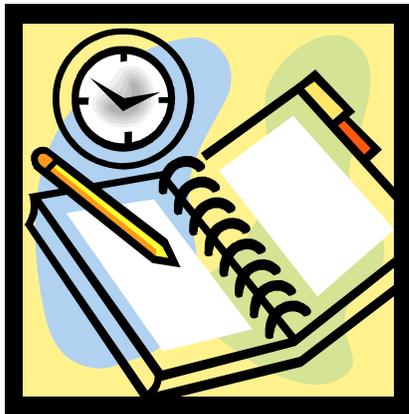
- Nature of the emergency
- Child’s current status
- Name, address, and phone number of the treating institution
- Location in the institution where the child may be located
- Name of a contact or treating professional at the institution

COMMUNICATION METHODS

The development of a communication infrastructure undoubtedly ensures both accountability and verifiability for parents, particularly in high-conflict cases. It also serves as protection for the children.

Communication methods come in various forms. Each method has advantages and disadvantages that must be considered when employing a specific method.

1. "The Notebook"



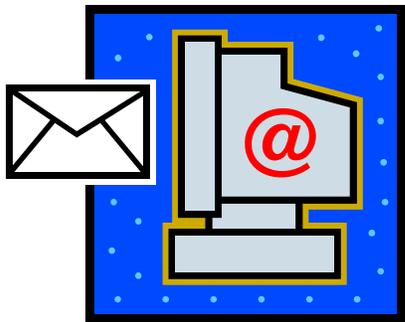
The parties secure a notebook (preferably bound rather than loose leaf pages) that travels with the child as each parent commences his or her parenting time. At or near the end of a parent's block of time with the child, that parent makes entries regarding issues such as medical care, serious injuries or illnesses, diet, education, school or extracurricular events, major social events, upcoming appointments, and identification of any issues for further discussion while the child is in his or her care. The receiving parent should review and initial the entries following the exchange of the child. The maintenance of such a notebook is inexpensive and does not require the use of technology. The disadvantage of using a notebook is that it could be lost, altered or destroyed, or read by the child carrying it. It may also not adequately address time-sensitive issues, particularly when there are more significant blocks of time between exchanges of the child.

2. Texting

Texting allows the parties to exchange basic information through a system that does not involve time delays. However, it may not provide a true record of the communication in the event of disputes and technological problems may impede the delivery of the message.



3. E-Mail:



Each parent could be required to communicate regarding the children regularly by e-mail. A parenting plan may impose a specific schedule and may require that a responsive e-mail be sent, even if for no other purpose than to acknowledge receipt of the information. The parents also may use e-mail to confirm information that was exchanged in person, by telephone, or through some other communication method that is not stored. Each party may be required to store or print all exchanged e-mails and maintain an e-mail notebook for future reference or future litigation. The strengths of this method include the ability to deliver information in a prompt and efficient manner and to create a true record of the communication. Its weaknesses are the technologically-dependent nature of e-mail and that it could lead to over-involvement of third parties, such as step-parents.



Email communication instructions are set forth in Addendum 4.

4. Internet Tools



There are numerous Internet services and programs to facilitate communication. These include, but are by no means limited to, sites such as familywizard.com, sharekids.com, jointparents.com, parentingtime.net, and Google Calendar. Some are fee based, but others are available at no charge to the user. They are designed to facilitate communication and are often in a format that allows for easy use and implementation. A potential weakness of some of these tools is that the system may allow either parent to unilaterally delete or alter information. Therefore, the parents should select a tool that ensures a true record.

A sample of Google Calendar is set forth in Addendum 5.

5. Telephone

Unless there is a specific reason to restrict direct contact, use of the telephone as a means to communicate between parents can be part of any communication plan. However, regular telephonic communication should be recommended only if the parents have demonstrated an ability to communicate without escalated conflict. Telephone communication may be limited in time and to a set of predetermined topics.



BASIC GUIDELINES FOR COMMUNICATION

While not exhaustive or applicable to each and every case, the following is a list of communication guidelines that could be included in any parenting plan. Communication should be:

- Succinct and concise
- Businesslike, information-based, and child centered
- Non-speculative and non-interpretive
- Constructive and non-accusatory
- Present or future-oriented and not for the purpose of rehashing past events
- Non-critical of the motives of the other parent
- Devoid of profanity, insults, and inflammatory comments
- Reasonable as to deadlines or due dates
- Structured or written in a fashion that recognizes it may later be viewed by a third party decision-maker, such as a judicial officer



NON-COMPLIANCE

Competing concerns arise when creating a parenting plan or order. Lack of detail can create conflict involving interpretation, implementation, and enforcement. Conversely, great detail can lead to an overzealous parent bringing serial enforcement actions for non-compliance. These concerns need to be considered and evaluated on a case-by-case basis. The parenting plan should address enforcement. The enforcement mechanisms should call for sanctions only when violations are cumulative, substantive, and contrary to the needs of the children, rather than technical in nature.



ADDENDUM 1

Order Re: Child Information Exchange

To assist in meeting the best interests of the child, it is of great importance for the parents to exchange information bearing on the ongoing needs of the child. To meet this objective, the parents shall exchange the "Child News Report."

For the purpose of this order, a "Child News Report" shall be a regular e-mail exchange between the parties containing information related to or focused on the child. The information shall be appropriate for the age of the child.

Infant and Toddler Age Children: The following are examples of types of information relating to the child that should be exchanged:

- Feeding
- Nap and sleeping schedules
- Methods to sooth the child
- How bumps and bruises occurred
- Potty training techniques and updates
- Moods
- Medical appointments
- Illness and medications
- Developmental milestones

Pre-School and School Age Children: In addition to the information listed above, the following are examples of types of information relating to the child that should be exchanged:

- Peer relations and social activities
- School, extracurricular, and religious activities
- Scheduled events and activities
- Homework and school projects
- School progress
- Behavioral and disciplinary issues
- Bed, bath, and meal routines

Mother's version of the "Child News Report" shall be sent to Father by no later than each Sunday evening. Father's version of the "Child News Report" shall be sent to Mother by no later than each Wednesday evening. The parent sending the "Report" shall include updated information and shall respond or acknowledge information provided by the other parent in the most recent communication. Each parent is required to send the e-mail each week, even if it is solely to acknowledge receipt of the other's communication or to convey that there is no new information to provide.

Each parent is instructed to print and save all "Child News Reports" written and received. This will allow for later use of the information in meeting the needs of the child.

ADDENDUM 2

Order Re: Maintaining of 12 Month Calendar

IT IS ORDERED that by no later than July 15 of each year (*or December 1 if a calendar year versus academic year is to be utilized*), Mother/Father shall prepare and forward to Father/Mother a *12 Month Calendar* for upcoming academic/calendar year. This calendar shall be constructed as follows:

- Mother/Father shall set forth the regular parenting time schedule onto the 12 Month Calendar. This shall include which parent is entitled to specific weekends and weekdays under the existing court orders.
- If there is a different specific schedule for summer, that shall be detailed for the summer months in accordance with the existing school schedules.
- Mother/Father shall then insert the holiday schedule, as ordered. If the holiday schedule conflicts with the regular schedule, the holiday provisions shall take priority.

The completed calendar shall then be reviewed by Father/Mother. He/She shall ensure that the regular parenting time is allocated in accordance with the orders and shall further confirm the same as it relates to summer, holidays and school vacations. Father/Mother shall then respond in writing to Mother/Father by no later than July 31 of each year (*or December 15 if a calendar year is utilized*).

The response shall address any perceived errors or omissions and shall confirm the remainder of the details. Thereafter, by no later than August 7 of each year (*or December 22 if a calendar year is utilized*), Mother/Father shall reply in writing to the points raised by Father/Mother. The reply shall include revisions consistent with the requests of the other parent, if agreed to, or shall identify the basis for the differences in positions taken. At a minimum, this shall afford the parties the opportunity to identify and work to resolve interpretation differences well in advance of the issue arising. Upon completion of these tasks, both parties shall sign in duplicate each page of the 12 Month Calendar, which shall serve to affirm that it is the calendar to be relied upon for the upcoming school/calendar year. Each party shall retain one of the two signed versions.

IT IS FURTHER ORDERED that as scheduling issues arise throughout the year, the parties shall refer to the approved version of the 12 Month Calendar. If they agree to a change or if either party exercises a right secured under the parenting time orders, each party shall make changes to their version of the 12 Month Calendar consistent with the new arrangements. This may include, but is not limited to, vacation plans authorized under the existing parenting time orders, trading of time allocated to the other parent, special school events or extracurricular activities that impact the parenting time schedule, and new information that was not contemplated under the general schedule.

ADDENDUM 3

Order Re: Supplemental Guidelines

It is recognized that events or activities (whether for the child or that parent's family and will impact the child) will arise over the course of the year but may not be specifically contemplated under the existing court orders. Therefore, when these circumstances arise, the parties shall comply with the following:

- If one parent has knowledge of an activity or event involving travel for the child or significant change in the child's routine, the other parent is entitled to be informed.
- If the activity or event will not impact upon the parenting time of the other parent, advance written notice shall be provided to the other parent to include relevant dates, description of the event or activity and contact information.
- If the activity or event will affect the other parent's time with the child, that parent's consent is required before the child is committed to the event or activity. In those circumstances, the consent shall not be unreasonably withheld.

ADDENDUM 4

Email Instructions to Parents

Emails should be used as the primary and preferred form of non-emergency information, to communicate information about the child's schedule, medical issues, medical or other appointments, school activities, proposed changes to the parenting time schedule, holiday activities, the child's personal property items or clothing, and other parenting-related issues. Exchanging information about the child in writing reduces misunderstandings and allows a parent to refer back to an exchange to verify times, dates, and information, and also establishes the time and date that the information was exchanged.

Please note that ignoring or failing to respond to emails, or acknowledging an email from the other parent is not an option. Where parents do not communicate in some other manner, email communication is the preferred method of communication, and these instructions should be followed so that everyone is communicating effectively.

The following are general guidelines that should be implemented for this method of communication:

SPECIFY AN EMAIL ADDRESS. One email address should be specified for use between the parents. A party is not required to use their general email account but may utilize a separate email such as Yahoo or Gmail which is set up specifically for communication about the children. You must, however, check the specified email account at least once every day. Once an email is specified for this purpose, the other parent shall not send emails to a different email address. If the email address changes, timely notice shall be provided to the other parent.

BRIEF AND SPECIFIC EMAILS. Keep the email short. If you have more than one issue to cover, number the issues you are covering, and then the answering email should refer to each item by number. Above all, the emails should BE BRIEF and the frequency of sending emails should be limited, unless there is a dire emergency about something.

SUBJECT LINES. Use Specific Subject Lines on all emails. This is very important. The parents may end up with hundreds of emails in a file, and a specific subject line will help everyone locate the relevant emails quickly. Ex: "John's football practice"; "Melissa's dance"; "John's Dr. Appt. on January 30"; "John's football practice"; or "Dad's response on August 18."

Discussion: Specific subject lines are particularly important if a third party, such as a Parenting Coordinator or the Court, will be receiving the parties' emails.

FUTURE-ORIENTED ONLY. All emails should relate to future activities only, a request for future action, OR provide specific information. Emails should not re-hash past incidents, assign blame, or make judgments on past events.

Discussion: High-conflict parents often have difficulty communicating because one or both parents cannot move beyond past incidents and difficulties. Specific past incidents have a way of creeping into emails in ways such as "You ALWAYS do this. Remember how she was late to her first day of school last year." Including this Guideline, and having a third party monitor emails and continually refer back to this Guideline, can be helpful in showing a parent that he or she tends to re-hash past incidents, which is not helpful to resolving current issues.

RESPECTFULNESS. NO name-calling, NO nick-names, and NO abusive language should be used. All language should be respectful. Write each email as if third parties are reading it (because they are).

RESPONSES. Emails that require a response should be responded to within a timely fashion. The same email rules apply to all responsive emails. If an email does not require a substantive response, the receiving parent shall send a responding email that, at a minimum, confirms the receipt of the information.

Discussion: The specific time period for responsive emails can be tailored to the specific case. In some cases, a response within 24 hours may be more appropriate. A failure to respond to emails is a common complaint between parents and some specific timeline for responses can be helpful. Parents who are exchanging nasty or ineffective emails often simply don't want to deal with a response, and therefore put off responding for as long as possible. Enforcement of the other Guidelines about courtesy, respect, and limiting the number of emails per day is also helpful in encouraging responses.

NEW SPOUSES. New spouses (or significant others) should not be involved in email communication. They should not send emails, and they should not be copied on emails which are sent to the other parent. If you want to blind-copy your significant other with emails, that is your business, but the new spouse's name/email should not appear in the email itself.

Discussion: The inclusion of new spouses or significant others in emails is very common in high-conflict cases. Including third parties in the email serves no purpose other than possibly antagonize the other parent. It's the email equivalent to bringing many people to court to sit in the back of the courtroom. Either party to an email can copy it to someone else privately, but leaving the additional parties' names out of the email itself can reduce hostility.

FINANCIAL ISSUES. Emails relating to financial issues should be sent separately from emails relating to children issues. Financial issues should be handled separately from parenting discussions or decisions.

TEXT MESSAGING. Text messaging is generally not the preferred method of communication. It may be utilized to convey time-sensitive information such as being delayed for a parenting time exchange.

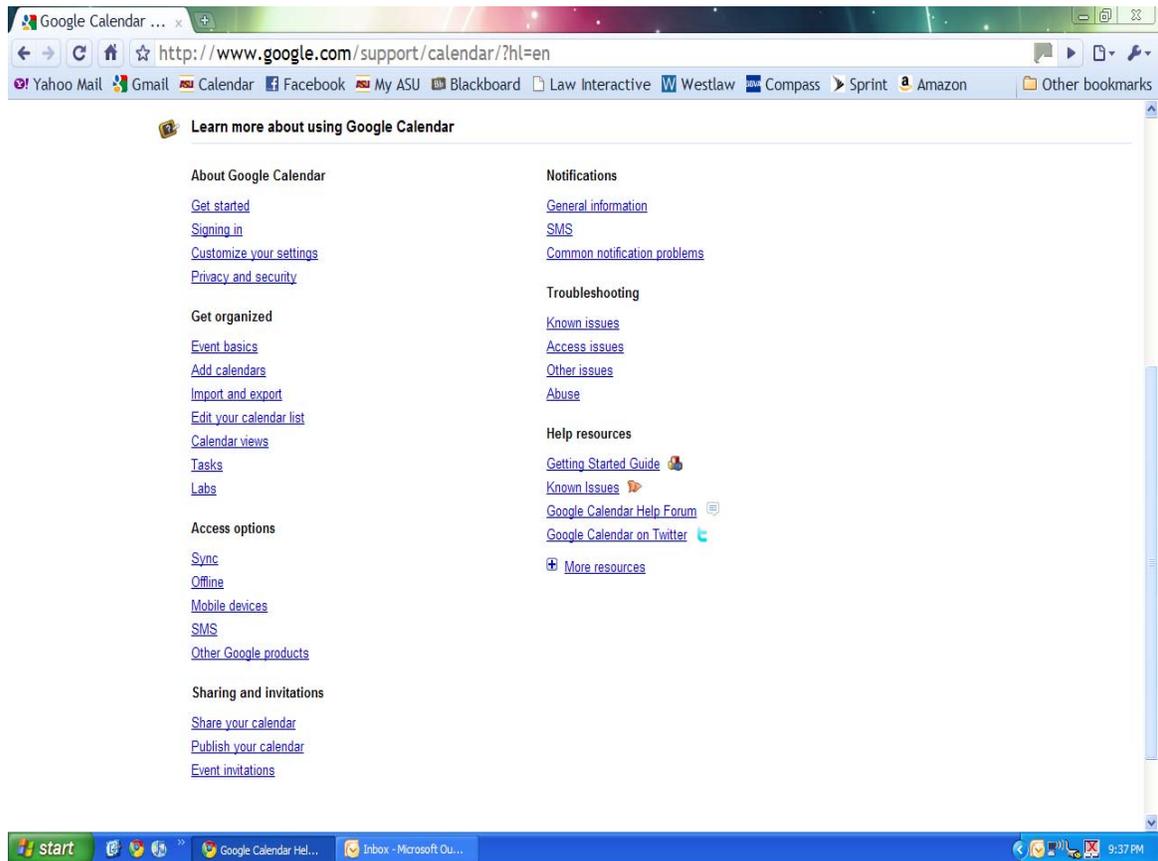
Discussion: Text messaging can be a very high point of conflict in some cases, but may not be a problem at all in other cases. If the parties agree that they can use text messaging, that can be allowed, but the parties should be cautioned that they use this at their own risk, as there is no effective way to prove that certain information was imparted to the other parent at a certain time by way of a text message.

ADDENDUM 5

Google Calendar

Google Calendar is a fairly simple way for parents to communicate regarding their child and is free of charge. It is a very user-friendly way to add events to a calendar which can be shared with other Gmail users. All that is necessary is a Gmail email account.

The screen shot shown below shows the Google Calendar help section.



The screen shot shown below is a sample of what a Google Calendar might look like. Any changes made to the calendar will automatically be emailed to the other shared user of the calendar if set up this way. Calendars can also be color coded so that each type of event can have a different color for easy viewing.

