

# Who gets the kids on the holidays?

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Dear Ask the Attorney:

I have been divorced for several years. My divorce agreement sets out which holidays the children spend with me and which they spend with my ex, generally, but it does not give specifics for the days and times on which those holidays begin and end. This has led to disagreements between us in the past. How can this be dealt with moving forward? Thanksgiving is less than a month away and I would like a hassle-free holiday for the kids this time around.

Thanks,

Hoping for Harmonious Holidays

***Our Guest blogger today is Katherine Fredland, Esq., an associate with Einhorn, Barbarito, Frost & Botwinick, PC's Matrimonial Department where she concentrates her practice solely in all areas of family law, divorce, and child custody issues.***

Dear Hoping,

Holidays can be filled with joy, but, after a divorce, they can also be fraught with stress over the exact problem you raise.

People think, while in the midst of a divorce, that in the future they will be able to agree what "Thanksgiving" means, or what is "Christmas Eve," as opposed to "Christmas Day." But when the holidays roll around and there are no specifics set down on paper as to days and times, people can rapidly find themselves in quarrels which could have been avoided by a little more detail when the divorce agreement was being written.

While these holidays might seem far off, especially if your divorce agreement is being negotiated during the summer, you will find Thanksgiving and Christmas upon you faster than you expect, and with relatives coming or travel plans to be made, these decisions become emotionally charged, which can in turn create stress for your children.

My grandpa liked to say, “Measure twice, cut once,” and that saying applies here. Taking the time to get very specific in your divorce agreement as to what days and times are, for each holiday that will be shared, can save a lot of headaches and heartaches later on.

When I draft agreements for clients, I ask them questions about how they have traditionally defined the Thanksgiving holiday and whether there are any specific familial considerations regarding this holiday. For example, does Thanksgiving begin on the Wednesday before, perhaps when the children finish school? Or does it begin on the actual Thursday of Thanksgiving itself? If it does, what time does the day start? Does it begin at 10am? Noon? And what time does it end? That same evening, or the following Friday? And if it ends the following Friday, at what time? Does the Thanksgiving holiday encompass the weekend that follows it, or would normal alternate weekend parenting time, if that is the arrangement between the parents, take priority? If the normal weekends prevail, do the children go to the other parent earlier than normal if they are out of school and the parent whose weekend it is isn't working? These questions may seem very detailed, but thinking and talking about that level of detail ahead of time can help to avoid disagreements later on.

Similarly, when it comes to Christmas, I help clients determine if “Christmas Eve” is just the afternoon/evening of December 24th, or whether it extends until the morning of December 25th, and if so, until what time? If it extends until December 25th, what time do the children switch houses on the 25th? And how long does “Christmas Day” then run for: until the night of the 25th, or into the 26th? And then there is always the question of weekends to be considered, as well as school breaks, many of which run after Christmas, through New Years.

Obviously these deliberations are not simple, but with a little planning and definition, a predictable schedule can be established, which will make the holidays easier and more enjoyable for everyone.

While you could try to amicably solve this yourself, sometimes it helps to bring a qualified family attorney into the situation, as they will inject a degree of emotional detachment into what can otherwise be a highly emotional discussion, and will add their experiences and solutions to the mix.

Best of luck in finding some harmony during your upcoming holiday season!

Katherine Fredland, Esq.

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