**Is 50-50 Parenting Time Presumed?**

By: Amy Wechsler

The short answer to this is: No.

In fact, there is no presumption in New Jersey as to what the parenting schedule should be when parents are separated or divorced. Public policy in New Jersey is to make sure that children have frequent and continuing contact with both parents, and parents are encouraged to share parenting rights and responsibilities. That, however, does not mean equal time.

A presumption in favor of any specific parenting time schedule would be a “one-size-fits-all” rule. What we know is that this type of rule generally ends up resulting in “one-size-fits-***none***.” A 50-50 schedule may be the perfect arrangement for some families. It may be impractical for others, and for some, it may be disastrous. When parents battle over getting precisely 50-50 time, this is sometimes more about the parents and their desire not to “lose” to the other parent than it is about the welfare of the child.

Certainly, parents’ concerns and desire to spend time with their children is important and should not be ignored. But when establishing a parenting plan, the paramount question that must be asked is this: “What is in the best interests of the child?“

No one family is exactly like any other family. So, it makes sense that determining a child’s best interests requires an examination of each family’s individual circumstances. New Jersey law provides fourteen separate factors that are to be considered in establishing a custody and parenting time plan. For example, are the parents able to communicate and cooperate with each other? Has either parent (or both parents) shown an unwillingness to allow the other parent to see or have contact with the children? What work responsibilities do the parents have? Some parents travel extensively. Some leave for work at 6 a.m. or don’t get home until after children are asleep and so they are not available to handle day-to-day parenting responsibility. How far apart are the parents’ homes? If they are 40 miles apart (which in New Jersey may means up to 1 ½ hours traveling in rush hour), how can they both make sure the children get to school every day? The child’s age is an important factor. Infants may have a hard time adapting to constantly-changing overnights. A high school student involved with after school activities, sports, etc., may have difficulty keeping track of their equipment, books, and projects if they have to deal with constantly moving back and forth between residences.

Parents who want a 50-50 schedule should recognize the importance of equal responsibility – not just equal time. Any schedule has to take into account the availability of both parents to take care of the child, and handle the responsibilities of child-rearing. A parent seeking 50% of the time with the children may expect or need the other parent to arrange most of the children’s health care, day care, daily activities and transportation. While some couples may be fine with that arrangement, many are not because it creates an unreasonable burden on the available parent.

A viable parenting plan requires a balancing of the children’s best interests with the individual circumstances of the family. The lack of a presumption for 50-50 (or any other arbitrarily imposed schedule), allows for families to do just that.