



SAN LUIS OBISPO COUNTY SUPERIOR COURT FAMILY LAW DEPARTMENT

Guidelines for Parents During the COVID-19 Pandemic

INTRODUCTION

On March 19, 2020, the State of California issued Executive Order N-33-20, which orders “all individuals living in the State of California to stay home or at their place of residence except as needed to maintain the continuity of operations of the federal critical infrastructure sectors.” The order provides that it remains in effect until further notice.

On March 18, 2020, the County of San Luis Obispo issued Local Emergency Order and Regulation No. 4 COVID-19, which orders all County residents to remain at their place of residence and authorizes them to leave their residences only for “essential activities.” The order prohibits all modes of travel except for purposes of essential travel and essential activities. The order allows travel into or out of the County to perform essential activities. “Essential activities” are defined to include providing care for a family member in another household. When leaving the residence to engage in essential activities, residents are to comply with social distancing requirements.

The Court recognizes that parents are impacted by the current pandemic, and perhaps confused by their obligations relating to parenting or custody/visitation orders. Since many orders mention school vacations, or exchanging children at their schools or other public locations, parents may have questions about their orders. The American Academy of Matrimonial Lawyers (AAML) and the Association of Family and Conciliation Courts (AFCC) have published helpful guidelines for parents during the pandemic, which can be found at <https://www.thecenterforfamilylaw.com/afcc-aaml>. The Court builds on these guidelines by providing clarification for parents concerning parenting orders, as set forth below.

GUIDELINES

The goal of these guidelines is to encourage the parties to follow their parenting orders as closely as possible, as doing so will provide a level of consistency and stability that is in the children’s best interests. These guidelines recognize California’s policy of promoting minor children’s frequent and continuing contact with parents, and encourages parents to share in the rights and responsibilities of raising their children. Parents also are encouraged to develop their own

parenting plan which takes into consideration the best interests of the children and safety of the parties.

Unless the parties enter into a new agreement to do something different, the parties should do the following:

1. Executive Orders Regarding Travel: The State and County have issued executive orders that restrict travel except for essential activities, which generally include caring for minors, dependents and/or family members. Therefore, unless otherwise directed by an executive order, the parties should continue to follow the existing parenting orders.
2. Definition of Spring Break, Summer Break/Vacation or Holidays: While the schools are closed, parenting time should continue as if the children are still attending school in accordance with the school calendar of the relevant district. "Spring break," "Summer break," "Summer break/vacation," or other designated holidays, means the regularly calendared breaks, vacations, or holidays in the school district where the children attend school (or would attend school if the school was open). The closure of the school for public health purposes should not be considered an extension of any break/vacation/holiday period or weekend. This means that if a child is in one household for the break/vacation/holiday period, they should transition to the other parent's household pursuant to the court orders at the end of the regularly calendared break/vacation/holiday period.
3. Denial of Parenting Time: The COVID-19 pandemic is not a reason to deny parenting time. Unless the Court finds otherwise, parents are considered fit to care for their children and make decisions regarding day-to-day aspects of parenting while the children are in their care. This day-to-day care includes following the California Department of Public Health and the County Public Health directives regarding social distancing and sanitation-related measures (such as frequent hand-washing).
4. Parenting Time in Public Places: If the existing parenting order states that parenting time will occur in a public place, parenting time should continue at locations that are permitted under the health and safety guidelines for the State and County, such as a large park or nature area. Public places where people routinely touch common contact surfaces (such as play equipment) should be avoided. However, activities where parents and children can maintain social distancing and avoid such surfaces are encouraged.
5. Supervised Parenting Time: If parenting time is ordered to be supervised, and the supervisor is unavailable due to COVID-19-related issues or government orders, the parties should work cooperatively to ensure parenting time continues to occur in a manner that promotes their children's safety and well-being, such as finding an alternate

professional or non-professional supervisor. If that is not possible, then the parents may agree that parenting time be conducted virtually via videoconferencing or by telephone.

6. Exchanges: During the exchange of the children, all parties should follow applicable health directives for limiting the spread of the virus, which may mean choosing an alternate location for the exchange that has fewer people congregating and limits touching of public items (for example, exchanging in a grocery store parking lot instead of a restaurant).
7. Safety-Related Issues: Our first responders must remain available for true emergencies and for support related to the COVID-19 outbreak. Parents should not call them for parenting-related disputes but rather only in the event of real, immediate, and significant safety-related reasons.
8. Transparency: Unless the parties are restrained from communicating, parents are encouraged to communicate about precautions they are taking to slow the spread of COVID-19. A parent should not deny parenting time based upon the other parent's unwillingness to discuss precautionary measures taken, or a belief that the other parent's precautions are insufficient.
9. Makeup Parenting Time: If parenting time is missed due to COVID-19-related issues or government orders, parents are encouraged to work collaboratively to schedule makeup parenting time that promotes their children's safety and wellbeing. In the event the parties are unable to agree, the Court may consider ordering makeup time when appropriate.

Nothing contained in these general guidelines limits the Court's discretion to issue any appropriate orders in any individual case depending on the particular circumstances of each case – even if such order departs from the general guidelines set forth above.

NEED FOR EMERGENCY (EX PARTE) ORDERS

There may be some situations that qualify for emergency orders. The parties are encouraged to resolve disputes without the need for further court orders. If the parties are not able to solve these issues, then the person who wishes to change the orders due to a valid emergency may wish to consider filing an ex parte request for temporary orders, which would require giving notice to the other parent of the ex parte hearing. Generally, an emergency is when there is a showing of actual harm to a child, an immediate risk of harm to a child, or an immediate risk that a child will be removed from the State of California. Further information can be found on the Court's website, www.slocourts.ca.gov, "Self-Help," "Family Law," "Request for Order."