

# Superior Court of California County of Santa Clara

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HON. DEBORAH A. RYAN, Presiding Judge

HON. THEODORE C. ZAYNER, Assistant Presiding Judge

HON. LORI E. PEGG, Supervising Judge, Family Division

HON. CHARLES F. ADAMS, Assistant Supervising Judge, Family Division

REBECCA J. FLEMING, Chief Executive Officer

## NOTICE

### **CHILD CUSTODY AND VISITATION POLICIES DURING COVID-19 PUBLIC HEALTH EMERGENCY**

The Family Division of the Superior Court provides the following information to clarify the court's policies regarding child custody, visitation and parenting time during the COVID-19 pandemic.

The goal of these recommendations is to encourage parents to follow their parenting plan as closely as possible, as doing so will ensure a level of consistency and stability that is in the children's best interests.

Consistent with Family Code section 3020, these policies are designed to promote the health, safety, and welfare of children, while also ensuring that children have frequent and continuing contact with their parents.

**1. While schools remain closed or while the children are attending school through remote technology, visitation or parenting time shall continue as if the children are attending school in person in accordance with the school calendar of the relevant district.** "Spring Break," "Summer Break," or other holidays designated in a visitation or parenting time order means the breaks, vacations or holidays that were calendared to occur by the children's school district before the schools were closed for public health purposes. The closure of a school for public health purposes will not be considered an extension of any break, vacation, holiday or weekend.

**2. The COVID-19 pandemic is not, by itself, a reason to deny visitation or parenting time.** Nor does the requirement to shelter-at-home and reduce personal contact justify, by itself, the denial of visitation or parenting time. Unless otherwise ordered by the court, 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. Parents are expected to follow the most current public health orders and directives

regarding social distancing and sanitation-related measures, such as frequent handwashing.

**3. If you or a member of your household has received a positive test for COVID-19, or if you learn that the other parent or a member of the other parent's household has received a positive test for COVID-19, you should immediately contact the other parent and discuss whether you can safely follow the court-ordered visitation schedule.** You and the other parent may agree to temporarily change the visitation schedule to allow for a quarantine period and/or for COVID-19 testing under current public health orders. You and the other parent should also consult with the children's doctor when deciding whether any changes should be made.

If you and the other parent reach an agreement to temporarily change the schedule, someone should put the agreement in writing. If you cannot reach an agreement, you should file a request with the court. The unreasonable denial of a parent's custodial time during the COVID-19 pandemic may be considered in connection with any request regarding custody and visitation.

**4. Without a court order, a parent is not permitted to deny visitation or parenting time based only on the belief that the other parent's precautions are insufficient.** Unless the parents are restricted from communicating by court order, they are encouraged to communicate about precautions that can be taken to slow the spread of COVID-19.

**5. If a visitation order states that parenting time will occur in a public place, parenting time should continue to occur at locations that are permitted under the most current public health orders.** If in-person visitation is not possible under these guidelines, parenting time should be conducted by telephone or using mobile, remote, or tech-based services that facilitate face-to-face interaction.

**6. If the court has ordered that visitation must be supervised, any visits must comply with the most current public health orders.**

If the current court order requires professionally supervised visitation and the agency providing those services offers virtual supervision through the use of mobile, remote, or tech-based services, such visits shall be permitted.

If the current court order requires non-professionally supervised visitation, the non-professional supervisor must practice social distancing. The non-professional supervisor should observe the visits from a distance of at least six feet, but may move closer only if necessary to ensure the children's safety.

If a court-designated non-professional supervisor cannot be personally present for public health reasons, the parents should work collaboratively to agree in writing to an alternate non-professional supervisor to ensure that parenting time continues to occur in a manner that promotes the children's safety and well-being, unless the parents are restricted from communicating by court order. If the parents cannot agree on an alternate non-professional supervisor, visitation shall be permitted with a professional supervisor, or with the court-designated non-professional supervisor using mobile, remote, or tech-based services. If professional supervision is utilized, all costs must be paid by the supervised parent, subject to reallocation by the court at a later time.

**7. During the exchange of children, parents should follow the most current public health orders and directives for limiting the spread of COVID-19.** Parents may agree in writing on an alternate location for the exchanges to avoid locations where people congregate and to avoid contacting commonly-touched surfaces.