

Option 1: You and Your Partner Agree

If you and your partner can talk openly and agree about plans for the child, and there are no safety issues involved, you can develop an agreement together. You can use the **Guidelines for Negotiation** and the **Parenting Plan Form**.

Legally, it's not necessary to have a separation agreement or a court order. But, by writing it down, everything is clear and there is less chance for confusion or problems later. You can make a written agreement and file it with the court. In the event that the agreement breaks down, you may then have grounds to enforce it.

If you feel threatened by the other parent, do not negotiate on your own. Consult a family justice counsellor, a Native court worker, your band social worker, your family support worker, a counsellor or an Elder.

What is a written agreement?

- A written agreement is a contract between you and your partner that says what you both have agreed to.
- A written agreement can include all your decisions about custody, and access, and about child support. It can also include your decisions about how you are going to divide the things you own, and whether one parent is going to contribute to the financial support of the other.
- You and your partner can put whatever you want in an agreement. For example, the agreement can say who has custody, and what the access arrangements are.
- The child support must follow the **Child Support Guidelines**. All of these decisions must be in the child's best interests.
- Make sure both you and your partner sign the agreement. It's also a good idea to see a lawyer before you sign an agreement, to make sure that you have protected your rights. *You should both see different lawyers.*
- It's a good idea to file the agreement with the court. If there are problems later, you can show a judge what you and your partner agreed to. Judges take these agreements very seriously, especially if you both had legal advice.
- You can also make your agreement into a consent order, which is a formal order a judge makes in court to affirm the agreement before signing the agreement.

Is an agreement binding?

Any agreement you reach may be filed with the court and then it is enforceable. If your agreement is not filed in court the agreement is usually considered to be a contract. Remember that no agreement may be reached unless everyone involved agrees.

Advantages of Making Your Own Agreement

AGREEMENT

vs.

GOING TO COURT

Not very expensive

May be expensive

Usually takes less time

Usually takes more time

Co-operative

Competitive

You decide

Judge decides

Win/win emphasis

Win/lose emphasis

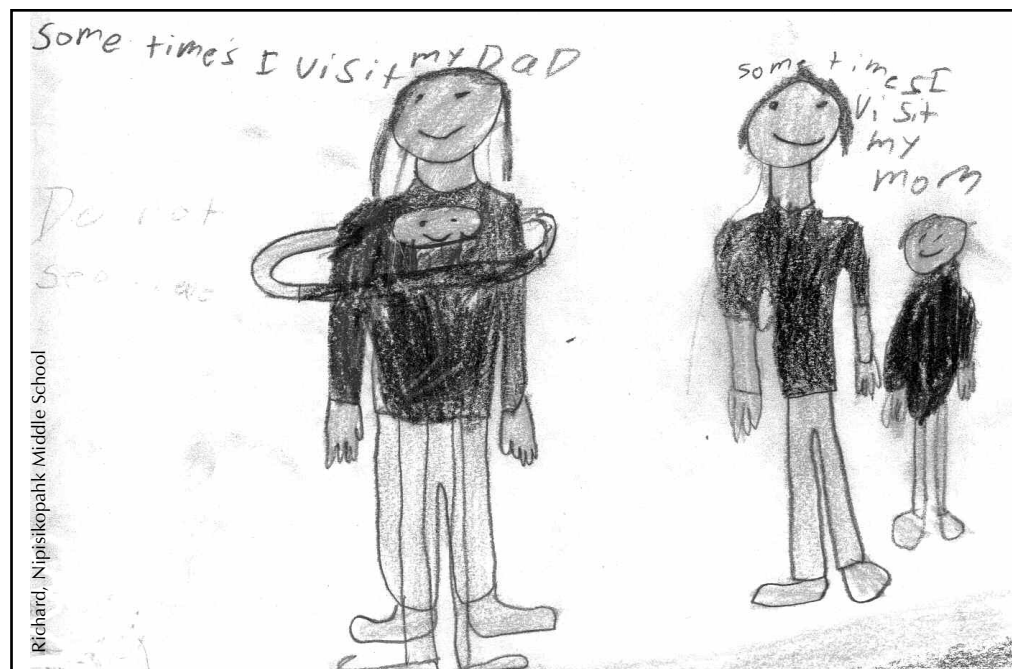
Narrows personal differences

Widens personal differences

It is always in the child's best interest to work together if possible. But if you and the other parent cannot agree, or there is abuse in the relationship, it is best to allow a judge to decide.

"Sometimes I visit my Dad.

Sometimes I visit my Mom."



Guidelines for negotiation

- Before you get together, gather all your information and facts.
- Choose a neutral place and a time when you can talk without interruption.
- Decide together on rules for how you will talk respectfully to each other. For example, you may both agree you are going to stop the meeting if either of you starts blaming the other for the separation, interrupting the other, or raising your voice.
- Speak clearly about what child-related issues you want to discuss. Stay focused on the topic. Don't bring up past faults and problems.
- Ask the other person for their point of view. Listen carefully to what the other person has to say. If you don't understand, ask for more information.
 - Look at solutions together and give your solutions as suggestions rather than demands.

***“Respect
means listening
until everyone has been
heard and understood, only
then is there a possibility of
'Balance and Harmony' – the
goal of Indian Spirituality”***

*Dave Chief, Aboriginal Elders
Teachings Archive, October
1998*

- Make sure both of you agree on the solution. Specify who will do what, when, and where. For example, if the agreement is about when the other parent will spend time with the children, you need to have a written plan about how and where the transfer will take place, and what time the children will go and return.
- Plan to meet again to review how the agreement is working.
 - At the end of the meeting, give positive comments such as, “I feel better about this,” and “I'm glad we were able to work it out together.”

