

# Effectively Utilizing the Parenting Coordination Process

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In contentious divorces, every decision parents make about their children can become a battleground. Enlisting the help of a parenting coordinator to implement the terms of their settlement agreement can be very effective to avoid battles but, if drafted improperly, the provision for the use of a parenting coordinator can create additional roadblocks to effective decision-making. By making smart decisions upfront, parents can design an agreement that is clear and advances the goals of their parenting coordination process.

## Explicit Agreements Reduce Confrontation Later

The American Psychological Association defines parenting coordination as “a non-adversarial dispute resolution process that is court ordered or agreed on by divorced and separated parents who have an ongoing pattern of high conflict and/or litigation about their children...The underlying principle of the parenting coordination intervention is a continuous focus on children’s best interests by the [parenting coordinator] in working with high-conflict parents and in decision making.” (Coates, Deutsch, Starnes, Sullivan, & Sydlik, 2004. *Parenting Coordination for High-Conflict Families. Family Court Review*, 42(2), 246-262; Deutsch, Coates, & Fieldstone, 2008; Kelly, 2002, 2008).

The operative words in this definition are “ongoing pattern of high conflict” and “high-conflict parents.” These descriptions include behaviors such as argument escalation, stonewalling, gaslighting, coercive control, or abuse, that impede parents from coparenting effectively without the help of a third party, and which often put the children in the middle unfairly,



forcing them to choose or align with one parent over the other.

Settling divorces when such behaviors are present presents a myriad of difficulties, which will not be resolved even upon the appointment of the parenting coordinator, unless care is taken to properly define the parenting coordinator’s role.

Critically, parenting coordinators implement the terms of and are confined by the agreement; they are not delegated authority to act as a substitute for the court. *Silbowitz v. Silbowitz*, 88 A.D.3d 687 (2d Dept. 2011). The power granted to the parenting coordinator in the settlement agreement, therefore, is of utmost importance. While an agreement is not void without the below, clear direction for the parenting coordinator and the process should include:

- Protocol for the parties to provide notice to each other of an issue/major decision to be addressed, including timing for the response, specificity of the

subject matter, and deadline by which the parenting coordinator should be contacted.

- Forfeiting of issues by a party who does not follow the protocol.

- A creative and comprehensive definition of the issues/major decisions the parenting coordinator may oversee if the parties cannot resolve the issue themselves.

- The ability of the parenting coordinator to speak with collaterals – the school, the pediatrician, etc., to enable him or her to either help the parties reach agreement or make the decision if the parties are unable to.

- A statement as to whether the parenting coordinator may speak with the children.

- The power of the parenting coordinator to make decisions, for example, if the decisions align with one of the parties and if the parties cannot agree themselves.

- Direction as to whether the parenting coordinator will provide an oral or a written decision if the parties are unable to reach agreement.

- A provision regarding payment of the parenting coordinator's retainer fees and the minimum balance needed to be kept on retainer with the parenting coordinator.

- A statement as to whether the parenting coordinator may consider cost when determining an issue.

- The ability of the parenting coordinator to resign and/or suggest an alternate parenting coordinator.

- A provision for the parties to take the issue to court if either does not like the result of the parenting coordinator.

Some pitfalls for parties (and their attorneys) to avoid include the following:

- Naming the parenting coordinator in the agreement without asking him or her first.

- Failing to include an alternate parenting procedure or protocol if the first choice cannot or will not serve.

- Stating in the agreement that the parenting coordinator will address "any issues affecting the children" as this ambiguity can allow for one parent to craft tangential ways an issue affects the children and overuse the parenting coordinator.

- If constraints are placed on the number of times the parenting coordinator will meet with the parties,

clearly defining whether that applies to a single issue, or all issues being addressed in a topic notice and whether the parenting coordinator has the power to change those constraints.

Parenting coordination requires both parties to work together to resolve issues that arise in raising their children. The parents, parties who have asked to be divorced, are forced into a continuous relationship despite the dissolution of their marriage. The clearer the role of the parenting coordinator, the better; otherwise, conflict will continue to ensue and motion practice may not be avoided.

### **Retain Early in the Process**

Retaining a parenting coordinator early in the process, before an agreement is signed can help parents reach resolution on difficult topics (such as a parenting plan), streamline decision-making, and assist the parents in devising a settlement agreement that the coordinator will be able to implement more successfully. It can also help parents be more thoughtful as to what professional background of the parenting coordinator will best suit their needs—attorney or mental health professional.

If the parties already have mental health professionals in place and are most concerned with interpreting their contract, then an attorney may best suit their needs. If they have a child who has special needs or developmental issues, a psychologist could provide more clinical insight into what is in his or best interest within the confines of the agreement.

Again, the parenting coordinator's job is to implement, not interpret, the agreement. To this end, the verbiage in the agreement is critical. By working together upfront, the parties to the agreement and the parenting coordinator can set expectations for how they will proceed.

In contentious divorces where the parties agree to share joint custody, a parenting coordinator can help them sort through the interests behind why they are arguing and act out of their true purpose. By retaining a parenting coordinator early in the process, the parents can be much more effective in acting out of their child's best interest, rather than their own.

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