

New York Divorce and Family Law Blog

[Joint Custody: What Is It?](#)

Posted by [Daniel Clement](#) on October 28, 2010

In almost every case involving children, one parent says, “I want joint custody.” When asked what they mean by joint custody, a puzzled look comes across the client’s face as they seek to avoid directly answering the question. So, what exactly is joint custody?

Custody can easily be broken into two components: physical custody, and decision making. Physical custody refers to where and when the children will be with a parent. Decision making generally refers to who is going to make the major decisions regarding the health, education and welfare of the children.

As Eory points out, indeterminate language in a custody agreement, like the commonly used phrase “liberal and reasonable parenting time”, are a recipe for trouble since the absence of detail will lead to misunderstandings, disagreements, disappointments and in some cases, a litigation to establish that which should have been fashioned in the first place.”

While joint decision making generally refers to the major decisions regarding the children’s health, education and welfare, issue arise as to the distinctions between what is major decision as opposed to one that is routine.

Standing alone, “joint custody” does nothing to resolve such issues, much less create a mechanism for resolution if a dispute arises.

If decision making is shared, do the parents have to merely consult with each other or actually agree? What happens if there is no agreement? How are disagreements resolved?

While joint custody arrangements are desirable to maintain joint parental involvement in the rearing of children, it does not mean that details of the custodial arrangement should be deferred from the time to divorce to some future date when disputes arise. A successful joint custody arrangement forces the parents to thoughtfully work out an access schedule and a method of decision making long before disputes arise, so as to avoid future issues.