

Esmeralda and Javier dated for 10 years and lived together for the last 8 years. They are not married. They have two children together, and paternity of those children is not contested.

Their son, Jose, is 6 years old. They had a daughter, Juanita, 6 months ago.

One month ago, Esmeralda and Javier decided to break up. The parties separated because Esmeralda learned that Javier had an affair while she was pregnant with Juanita. Esmeralda stayed in the house they have been renting for the last several years, and Javier moved into a three-bedroom apartment that is approximately 30 minutes away from Esmeralda's house.

Although the parties no longer wish to live together or be in a relationship with one another, they are on relatively good terms. There is no history of coercive control, domestic violence, or child abuse in their relationship. When Jose was born, Javier worked a lot, so Esmeralda handled the majority of his early care. As Jose got older, Javier took a more active role in feeding him breakfast and packing his lunches, handling those tasks about 50% of the time. Esmeralda historically took both kids to doctor's appointments, but Javier has always kept himself informed by asking Esmeralda about how the appointments went, and he has taken Jose to urgent care twice when Jose had ear infections.

Jose attends a public school that is about 15 minutes from Esmeralda's house. He went there for preschool and kindergarten and is currently in first grade. He likes his school and has several friends in the neighborhood that also attend his school. Javier's new apartment is a 20-minute drive from the school.

When Javier moved out, the parties started taking turns watching Jose. They figure out their schedule each week by exchanging text messages. So far, Esmeralda has had Jose about two-thirds of the time and Javier has had him about one-third of the time. Jose loves both of his parents but gets very sad every time he transitions from one house to the other; however, he settles in within two hours of being with the other parent. Jose is still figuring out what to do with his little sister, but he likes making silly faces at her to make her laugh and he loves helping his mom give her a bath.

Esmeralda appreciates Javier taking Jose some of the time, but she is tired of having to figure out the schedule every week. She wants a regular plan with more predictability. Javier wants flexibility in the plan and wants it to revolve around his work schedule. He works construction, and his schedule varies based on the project he's working on at the time.

So far, Javier has not had any parenting time with Juanita without Esmeralda present. He tends to spend about an hour with her when he picks up Jose or drops him off at Esmeralda's house. Juanita is a healthy baby, but she does not sleep well, and she refuses to drink from a bottle. She has barely started trying solid foods, so virtually all of her nutrition comes from breastfeeding. Esmeralda went back to work when Juanita was about 12 weeks old, but her job allows her to work from home 100% of the time. Esmeralda's mother watches Juanita in Esmeralda's house while Esmeralda works, and Esmeralda breastfeeds Juanita throughout the day.

Please answer the following questions:

- 1: Can the court order different parenting time schedules for Jose and Juanita?
- 2: Which facts provided in this fact pattern will apply to each of the factors the court must consider pursuant to C.R.S. § 14-10-124 when deciding what parenting time schedule or schedules is in the best interests of each of these children?