

About Collaborative Law

What is Collaborative Law?

Collaborative Law is a process to resolve disputes without going to court. All negotiations take place in direct conferences between parties, their attorneys and allied professionals. Each party has built-in legal advice and advocacy during negotiations and each attorney is committed to guiding the parties toward a reasonable settlement. Because neither the parties nor other professionals can go to court or threaten to go to court, settlement is the only goal. The parties are encouraged and guided to communicate their real needs and interests. Through safe and focused discussions, both parties are encouraged to recognize the needs of their children and the needs and interests of the other party.

The Principles of Collaborative Law

Goals

All the essence of "Collaborative Law" is the shared belief by the participants that it is in the best interests of parties and their families to commit themselves to avoiding litigation. Therefore they adopt this conflict resolution process, which does not rely on a court-imposed resolution, but relies on an atmosphere of honesty, cooperation, integrity and professionalism geared toward the future well-being of the family.

The goal is to minimize, if not eliminate, the negative economic, social and emotional consequences of protracted litigation to the participants and their families. The participants commit themselves to the Collaborative Law process and agree to seek a better way to resolve differences justly and equitably.

No Court or Other Intervention

Issues will be resolved without court intervention.

The parties will give full, honest and open disclosure of all information, whether requested or not.

There will be informal discussions and conferences to settle all issues.

The parties direct all attorneys, accountants, therapists, appraisers and other consultants to work in a cooperative effort to resolve issues without resorting to litigation or any other external decision-making process.

Participation with Integrity

The participants will work to protect the privacy, respect and dignity of all involved, including parties, attorneys and consultants. All shall maintain a high standard of integrity and shall not take advantage of each other or of the miscalculations or inadvertent mistakes of others, but shall identify and correct them.

Experts and Consultants

If experts are needed, they will be retained jointly unless all parties and their attorneys agree otherwise in writing.

Children's Issues

In resolving issues about sharing the enjoyment of and responsibility for their children, the parties, their attorneys and Child Specialists shall make every effort to reach amicable solutions that promote the children's best interests.

All agree to act quickly to discuss and resolve differences related to the children to promote a caring, loving and involved relationship between the children and both parents.

The parties agree to insulate their children from involvement in the family law disputes. Attendance at the A.C.T. Program (Acting for Children Through Transition) or similar parenting education program in a county where a program is available is encouraged.

Negotiation in Good Faith

The parties acknowledge that each of their attorneys is independent from the other, and represents only one party in the Collaborative law process.

All understand that the process, even with full and honest disclosure, will involve vigorous good faith negotiation.

Each of the parties will be expected to make a reasoned statement of legitimate needs and interests in all disputes. Where such legitimate needs and interests differ, each of the parties will be encouraged to use their best efforts to create proposals that meet the fundamental needs of both of the parties and the family to reach a settlement of all issues.

Although the participants may discuss the likely outcome of a litigated result, no one will use threats of litigation as a way of forcing settlement.

Abuse of the Collaborative Law Process

The parties understand that their Collaborative Law attorneys will withdraw from a case and/or will terminate the Collaborative Law process, as soon as possible, upon learning that a party has withheld or misrepresented information or otherwise acted so as to undermine or take unfair advantage of the Collaborative Law process.

Disqualification by Court Intervention

The parties understand that their attorneys' representation is limited to the Collaborative Law process and that neither of the attorneys can ever represent them in court in a proceeding against the other party. In the event a court filing is unavoidable, both attorneys will be disqualified from representing either client.

In the event that the Collaborative Law process terminates, all consultants, Child Specialists, facilitators and allied professionals will be disqualified as witnesses and their work product will be inadmissible as evidence.

Cautions

The parties understand there is no guarantee that the process will be successful in resolving their case and that the process cannot eliminate concerns about the disharmony, distrust and irreconcilable differences which have led to the current conflict.

The parties understand that they are still expected to assert their respective interests and that their attorneys will help them do so. They understand that they should not lapse into a false sense of security that the process will protect each of them fully.

The parties understand that while their Collaborative attorneys share a commitment to the Collaborative law process, each of them has a professional duty to represent his or her own client diligently, and is not the attorney for the other party.

Professional Fees and Costs

The parties understand that their professionals are paid for their services, and that one of the tasks in a Collaborative Law matter is to ensure parity of payment for each of them. The parties agree to make funds available for this purpose.