

## Collaborative Law

Collaborative Law is a voluntary dispute resolution process where the parties to a divorce agree to work together respectfully, honestly and in good faith to try to reach a mutually agreeable settlement, without going to court. In the Collaborative Law process both parties hire separate, specially trained lawyers to help them settle their case in a way that addresses their competing needs and shared interests. If necessary, the parties can also involve other professionals, such as an accountant, financial planner, communications coach, or child specialist.

The Collaborative Law process begins with the parties and their attorneys signing an agreement. The agreement sets out the nature and scope of the collaborative process, which typically includes:

1. Negotiating in good faith,
2. Acting respectfully towards one another,
3. Disclosing all relevant information to the other party,
4. Using jointly hired neutral experts, if necessary, and
5. Protecting the confidentiality of collaborative communications.

While the parties are working in the collaborative law process, they pledge not to go to court to settle disputes. Either party may stop the Collaborative Law process at any time. However, if that happens, the collaborative lawyers must withdraw from the case, and cannot represent either party against the other if case ends up in court.

### **Frequently Asked Questions**

- 1. What is Collaborative Law?**
- 2. Will the Collaborative Law process work for me?**
- 3. How does the Collaborative Process work?**
- 4. What is a "Collaborative Team?"**
- 5. Are my rights protected by the Collaborative Law attorney?**
- 6. How much does Collaborative Law cost?**
- 7. What happens if one side or the other hides documents or is dishonest in some way?**
- 8. What happens if agreement cannot be reached and one or both parties want a traditional divorce?**
- 9. Why must the collaborative lawyers withdraw if one of the parties decides to go to court?**
- 10. What is the difference between Collaborative Law and traditional divorce?**

## **11. What's the difference between Collaborative Law and Mediation?**

### **1. What is Collaborative Law?**

Collaborative Law is a voluntary dispute resolution process where the parties to a divorce agree to work together respectfully, honestly and in good faith to try to reach a mutually agreeable settlement, without going to court. In the Collaborative Law process both parties hire separate, specially trained lawyers to help them resolve their case in a way that addresses their competing needs and shared interests.

### **2. Will the Collaborative Law process work for me?**

Divorce is a sensitive personal matter and no single approach is right for everyone. Many people do find that the Collaborative Law process is a welcome alternative to the often destructive, uncomfortable aspects of traditional divorce. You may want to consider Collaborative Law if these values are important to you:

- I want to maintain the tone of respect, even when we disagree.
- I want to prioritize the needs of our children.
- My needs and those of my spouse/partner require equal consideration.
- I believe that working creatively and cooperatively solves issues.
- It is important to reach beyond today's frustration to plan for the future.
- I want to maintain control of the divorce process with my spouse/partner, and not give control to the courts.

### **3. How does the Collaborative Law process work?**

When a couple decides to use the Collaborative Law process to get a divorce without going to court, they each hire a lawyer trained in collaborative law. To begin the process the parties and the attorneys sign a participation agreement that describes the scope and nature of the collaborative law process. Collaborative lawyers and the parties sit together in face-to-face meetings to identify and address the issues in the case that need to be resolved. The lawyers focus the parties on problem-solving and making plans for the future, rather than on casting blame or making accusations for what may have happened in the past.

### **4. What is a "Collaborative Team?"**

Sometimes other professionals may be needed to help resolve specific issues, for instance complex financial matters. So in addition to lawyers, the collaborative team can include any combination of professionals, such as an accountant, financial planner, or child specialist. The parties jointly hire these professionals who act as problem-solvers rather than as adversaries.

### **5. Are my rights protected by the Collaborative Law attorney?**

Yes. The Collaborative Law attorney has an absolute duty to represent solely his or her client's interests.

The Collaborative Law process does not mean that an attorney can or should be anything less than 100% on the side of his or her client. What is unique about collaborative law, however, is that the collaborative lawyer takes responsibility for advancing the client's interest in settlement (as well as other interests), and therefore zealous advocacy in a collaborative negotiation is focused on finding a mutually agreeable solution

#### **6. How much does Collaborative Law cost?**

Collaborative lawyers generally charge by the hour as do conventional family lawyers. Rates vary and no one can predict exactly what you will pay for this kind of representation because every case is different. There may be additional costs if the parties choose to hire other professionals, such as an accountant, or child specialist. While the amount of fees cannot be predicted, collaborative law representation will almost always cost less than being represented in a traditional court case.

#### **7. What happens if one side or the other hides documents or is dishonest in some way?**

This could happen. It also can and does happen in conventional legal representation. What is different about Collaborative Law is that the collaborative law agreement requires the lawyer to withdraw if a party is not being honest, or is not participating in good faith.

#### **8. What happens if agreement cannot be reached and one or both parties want a traditional divorce?**

The parties and attorneys are bound by a written pledge not to go to court over any contested issue. If one or both parties want to end the collaborative process, both attorneys are legally obligated to withdraw from the case. This means that both parties have an incentive to settle their case collaboratively in order to avoid having to hire new attorneys and begin a traditional divorce process through the court system, adding time and expense to the divorce.

#### **9. Why must the collaborative lawyers withdraw if one of the parties decides to go to court?**

Requiring the collaborative lawyers to withdraw if one party terminates the process protects the confidentiality of the collaborative meetings. The requirement that the collaborative lawyers be disqualified in the event of a breakdown also guarantees that all participating lawyers will be motivated to have the process succeed. This way, all participants are equally and fully invested in finding the solutions to all problems.

#### **10. What's the difference between Collaborative Law and Mediation?**

In mediation, a single neutral third party (the mediator) meets with the parties. The mediator listens to the parties and tries to help them work out a solution that works for everyone. The mediator cannot give either party legal advice, and cannot be an advocate for either side. The parties may be represented by lawyers, but it is not required. If a settlement is reached, the mediator generally does not prepare the divorce agreement or other judgment paperwork. For more information on private family law mediation, [click here](#).

In Collaborative Law the parties have lawyers, with training similar to mediators, who work with the parties in a balanced process designed to be positive and productive. When an agreement has been reached, it is written by the lawyers, and reviewed and edited by both parties until everyone is satisfied.

Both Collaborative Law and mediation rely on the voluntary and free exchange of information, and a commitment to resolve the case in a way that respects the parties' shared goals. If mediation doesn't result in a settlement, the parties may choose to use their lawyer in court, but matters discussed in mediation generally cannot be used in court. In Collaborative Law, the lawyers and parties sign an agreement that specifically states that the collaborative attorneys, and other collaborative team members, are disqualified from participating in court if the collaborative process ends without reaching an agreement.

### **11. What is the difference between Collaborative Practice and traditional divorce?**

Traditional divorce litigation is generally the most expensive way of resolving your case. In a traditional divorce, one spouse or partner sues the other and sets in motion a series of legal steps, often involving court hearings. These steps and court hearings often result in a settlement reached with the court's involvement. Nevertheless, through the court process, the parties often come to view each other as adversaries, and the divorce becomes a battleground. The resulting conflicts take an immense toll on emotions—especially the children's.

Collaborative Practice is by definition a non-adversarial approach. The parties and their lawyers pledge in writing not to go to court. They negotiate in good faith and reach a mutually-agreed upon settlement outside of court. The cooperative nature of Collaborative Law can greatly ease the emotional strain caused by the breakup of a relationship, as well as protect the well-being of children.