

The following article is from the Ohio State Bar Association, discussing Collaborative Family Law.

### Collaborative Family Law Promotes Divorce with Dignity

Q: What, exactly, is collaborative family law, and how does it work?

A: Collaborative family law is a process through which the parties to a divorce and their individual attorneys commit to resolve all issues of the divorce by negotiated agreement without resorting to or threatening litigation.

Collaborative law requires all parties—spouses and attorneys—to sign a collaborative law participation agreement, pledging to take a reasoned approach on all issues. All participants agree to create proposals that meet the fundamental needs of both parties and, if necessary, to compromise to settle all issues. After this agreement is signed, each spouse meets with his or her lawyer. Then, both spouses and their attorneys attend the first collaborative meeting.

Almost all collaboration business is done in four-way meetings, with both attorneys and both parties present. Nothing happens in secret, and no one may threaten litigation, play games or take advantage.

The attorneys agree ahead of time NOT to file a contested divorce with the court. Rather, they agree in advance that they will withdraw from the case if it cannot be resolved out of court. This gives the attorneys a financial incentive to help resolve problems.

Q: What are the benefits and limitations of the collaborative process?

A: A collaborative process is less time-consuming, less expensive and less confrontational than a traditional adversarial divorce. Reducing such stress allows parties to focus on problem resolution. The parties' lawyers represent their respective interests and can prepare all necessary paperwork, but the parties have more control over a collaborative settlement than a traditional divorce. The collaborative process is also more private than a contested divorce, which generates court filings, transcripts and hearings in open court. Where parties cannot work out differences, or do not value a negotiated solution, the collaborative process will probably not be effective.

Q: How do collaboration and mediation compare?

A: In divorce mediation, a neutral mediator meets with both parties to help them reconcile their differences, but provides no legal advice to either party. The mediator is not authorized to make any decisions on the parties' behalf. Like collaboration, mediation works only when the parties intend to be reasonable and fair. Frequently, agreement on certain issues may be reached through mediation, while other issues are referred to a court proceeding or a binding arbitration. Mediators generally do not prepare court paperwork or appear in court with clients. Parties using mediation generally consult with their lawyers outside the mediation process.

In collaboration, each party is fully and individually represented by legal counsel throughout the process. Collaborative attorneys can prepare all necessary paperwork and attend the required hearing where the divorce agreement is presented to the court for approval. The costs for collaboration and mediation are roughly comparable.

Q: How does collaborative law address technical issues like tax questions and property appraisals?

A: Most collaborative family law practice groups include non-lawyer members who are collaboratively trained financial professionals and can act as neutral advisors on tax and planning issues. Some groups also include, as adjunct members, licensed real estate appraisers who are committed to doing neutral appraisals so the divorcing couple does not have to pay for two appraisals as well as for two appraisers to argue in court.

Q: How does collaborative law tackle parenting issues?

A: Most collaborative family law practice groups also have non-lawyer members including psychologists, family counselors and child specialists or licensed independent social workers. Such an individual may act as a “coach” for a client who is struggling with the emotional side of a domestic case, or as a neutral child specialist who helps clients work out an effective, age-appropriate parenting plan.

Q: How widespread is the collaborative family law movement?

A: There are currently more than 180 collaborative law practice groups in the United States, according to the International Association of Collaborative Professionals. In Ohio, collaborative family law groups have been established in the Columbus, Cincinnati and Cleveland areas. Lawyers from adjacent counties often belong to these groups, and collaborative cases are handled in many of Ohio’s counties.

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