

Collaborative Family Law

Collaborative Law is a way of practicing law in which the attorneys agree to assist the parties using cooperative strategies rather than adversarial techniques and litigation. Collaborative Divorce is a method in which you and your spouse choose professionals who commit to helping you reach a settlement out of court. The goal of a Collaborative Divorce is to give you and your spouse full control over the outcome of your case while, at the same time, making sure that you both have the same protections that you would have in a traditional negotiation.

This early non-adversarial participation allows the attorneys to use analysis and reasoning to help their clients solve problems and creates a positive context for settlement. In Collaborative law cases, the attorneys and the clients all sign an agreement saying that, if one of the parties choose to go to court, both parties must use different attorneys.

The process generally starts when you and your spouse both agree to hire Collaborative attorneys who agree to represent each of you for settlement purposes only. A Collaborative Attorney is typically someone with significant experience and training in representing people within the Collaborative Process. The primary difference between the Collaborative Process and traditional negotiation is that, if your matter were to proceed to court, the Collaborative attorneys could not be involved in the adversarial proceedings. The purpose of that rule is to provide a safe and effective environment so that you and your spouse, and your attorneys, can speak more freely, and can use other settlement techniques, that may not be as effective if the threat of court was imminent.

One of the other key features of Collaborative Practice is that you and your spouse are encouraged to work with other team members to help you work on the non-legal aspects of your case. For example, you and your spouse could work with a child specialist to help you address the needs of your children; you can work with a financial specialist to help you obtain the best possible financial plan; and you could work with a coach (or coaches) to help you work on the communication and emotional issues of the divorce.

The following is an outline of the typical steps in the Collaborative process:

Step 1: Finding and Hiring an Attorney

In the Collaborative process, you and your spouse may coordinate your search for attorneys. More specifically, you both agree to hire attorneys who are trained in settling cases through Collaborative strategies. For more information on Collaborative attorneys, please go to <http://www.ousky.com/divorce/pc-collaborative.html>. If you would need assistance in finding a Collaborative attorney, please go to <http://www.collaborativelaw.org/>.

Step 2: Starting the Divorce Process

After hiring attorneys, the first official step in the Collaborative process is almost always a four-way conference where you, your spouse, and both attorneys get together to discuss how you want the case to proceed. During this initial conference, you, your spouse, and both attorneys will sign a Participation Agreement, which lays out the ground rules for the process. To see a sample Participation Agreement, please go to <http://www.ousky.com/pdf/ParticipationAgreement.pdf>.

Step 3: Taking Care of Immediate Problems

In the Collaborative process, most temporary issues are handled at one of the initial four-way meetings. Resolving your short-term concerns out of court will save you and your spouse a lot of time and money.

Step 4: Gathering and Exchanging Information

In the Collaborative process, the Participation Agreement makes clear that you and your spouse must voluntarily disclose all relevant facts. Parties can gather the information on their own or with the assistance of their attorneys.

Step 5: Using Experts

In the Collaborative process, only neutral experts are used. Examples of neutral experts include financial experts, child specialists, and coaches. To learn more about the various roles of neutral experts in the Collaborative Process, please go to <http://www.ousky.com/divorce/pc-roles.html>.

Step 6: Negotiating a Settlement

Collaborative attorneys receive specialized training in interest-based conflict resolution. That means that their expertise is in helping you and your spouse identify big-picture goals and finding common ground so you can get better results.

Step 7: Getting a Final Divorce Decree through Stipulation

In the Collaborative process, trials and hearings are eliminated and the final document is the result of an agreement signed by both you and your spouse.

All information taken from "The Collaborative Way to Divorce: The Revolutionary Method That Results in Less Stress, Lower Costs, and Happier Kids---Without Going to Court" by Stuart Webb and Ron Ousky