

FREQUENTLY ASKED QUESTIONS

1. **What does “Collaborative” mean in divorce cases?**

Collaborative law, collaborative process, and collaborative divorce are terms often used interchangeably. However, they are all components of collaborative practice, which has these key elements: the voluntary and free exchange of information; the pledge not to litigate, and the commitment to resolutions that respect the parties’ shared goals and the best interests of the children.

2. **What is a “Collaborative Team?”**

The premise of the “collaborative team” is that the parties and their chosen professionals act as a problem-solving team rather than as adversaries. A collaborative team can be any combination of professionals that the parties choose to work with to resolve their dispute. It can be just the parties and their collaborative lawyers. It can be the parties, their collaborative attorneys and a financial professional. It can be the parties and divorce coaches, working as a team either before or after the collaborative attorneys are chosen and the legal process begins.

3. **What is Collaborative Divorce?**

The interdisciplinary collaborative team model is a multi-disciplinary team approach that includes attorneys, coaches, a financial specialist and sometimes, when there are minor children, a child specialist working interactively as co-equals. Professionals on the team all subscribe to the same core values and agreement that none of the team members will participate in any court procedure concerning a shared case, and all members will withdraw from the case if it becomes a court involved process.

Team members are selected by the clients at the beginning of the case. The team is ideally made up of two collaborative lawyers, one of each partner, two divorce coaches, one for each partner and one neutral financial specialist, if necessary, a child specialist who represents the voice of the child(ren). Along with the divorcing couple. A key element of the team approach is that the couple can enter into the interdisciplinary collaborative team process through any “door”; a couple, for example, might first contact a collaborative divorce coach, a collaborative lawyer or a collaborative financial specialist to begin the process.

The divorcing couple works with their individual divorce coaches to enhance their communication skills as well as learn self management and negotiation skills to help them during their divorce process. When they first meet individually with their divorce coaches, they work on acquiring the skills and knowledge to have successful four-way meetings with their coaches as well as with their collaborative lawyers. During these meetings the couple learns how to communicate their concerns effectively and discuss options for the parenting plan. These four-way meetings are not only crucial in helping the couple to work with the rest of the team during the divorce process, but can assist them in improving their co-

parenting relationship as well.

The neutral financial specialist meets with the divorcing couple and helps them begin their dialogue around financial issues, while assisting them in gathering all the necessary financial information. The financial specialist works closely with the couple and their respective lawyers in understanding both present and future financial consequences of various possible settlement options. This information is presented in five-way meetings with the financial specialist, the two collaborative lawyers, and the couple where the options are discussed, and share ideas for financial settlement.

During this process, the child specialist may talk with the parents and meets with the child to assess the child's needs and concerns. The child specialist may also assist the parents to recognize and meet the developmental needs of the children, while providing them a voice in the divorce process. Unlike a custody evaluator, the child specialist does not make specific recommendations, but works with the coaches and the parents in making informed decisions to help their child. This information that the child specialist provides is essential not only for parents, but for the entire team. With the information received from the child specialist, the couple, with the help of their coaches, will craft the parenting plan which is part of their final divorce document.

This integrated model provides the couple with the services they need from the professional most qualified to address each of the complex and varied issues of divorce. Working together, these Collaborative professionals help divorcing couples achieve an outcome that would not be possible without this cooperative team involvement.

4. What is the difference between Collaborative Divorce and conventional divorce?

In conventional divorce, one spouse sues the other for divorce and sets in motion a series of legal steps. These eventually result in a settlement achieved with the involvement of the court in most cases. Unfortunately, spouses going through a conventional divorce can come to view each other as adversaries, and their divorce as a battleground. The ensuing conflicts can take an immense toll on the emotions of all the participants, especially the children.

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

5. What is the difference between Collaborative Divorce and Mediation?

In mediation, an impartial third party (the mediator) facilitates the negotiations of the disputing parties and tries to help them settle their case. However, the mediator cannot give either party legal advice, and cannot be an advocate for either side. If there are lawyers for the parties, they may be may not be present at the mediation sessions, but if they are not

present, the parties can consult their counsel between mediation sessions. Once an agreement is reached, the mediator or one of the lawyers prepares a draft of the settlement terms for review and editing by the parties and counsel.

Collaborative divorce is designed to allow clients to have their lawyers with them during the negotiation process, while maintaining the same commitment to settlement as the sole agenda. It is the job of the lawyers, who have received training similar to the training that mediators receive in interest-based negotiation, to work with their own clients and one another to assure that the process stays balanced, positive and productive. Once an agreement is reached, the lawyers draft the settlement document and the lawyers and parties at a joint meeting review and edit, until both parties are satisfied with the document.

Both collaborative practice and mediation rely on the voluntary and free exchange of information and a it commitment to resolutions that respect the parties' shared goals. If mediation does not result in a settlement, the parties may choose to use their counsel in litigation, if this is consistent with the scope of representation upon which the client and lawyer have agreed. In collaborative divorce, the lawyers and parties sign an agreement, which aligns everyone's interests in the direction of resolution, and specifically provides that the collaborative attorneys and any other professional team members will be disqualified from participating in litigation if the collaborative process is terminated without an agreement being reached.

6. What does Collaborative Divorce do to minimize the hostility often present in divorce?

Collaborative divorce is guided by a very important principle: respect. By setting a respectful tone, collaborative divorce encourages the divorcing spouses to demonstrate compassion, understanding and cooperation. In addition, collaborative professionals are trained in non-confrontational negotiation to help keep discussions productive. The goal of collaborative divorce is to build a settlement in areas of agreement, not to perpetuate disagreement.

7. Is Collaborative Divorce a faster way to get a divorce?

Individual circumstances determine how quickly any divorce process proceeds. However, collaborative divorce is usually a more direct and efficient form of divorce. From the start, it focuses on problem solving, not blaming or endlessly airing grievances. Full disclosure and open communications help to assure that all issues are discussed in a timely manner. Finally, because settlement is reached out of court, there is no waiting for the multiple court appearances that may be necessary with conventional divorce.

8. How does Collaborative Divorce focus on the future?

Divorce is both an ending and a beginning. Collaborative divorce helps each spouse anticipate their needs in moving forward, and include these in the discussions. When children are involved, collaborative divorce makes their future a number one priority. As a

more respectful, dignified process, collaborative divorce helps families make a smoother transition to the next stage of their lives.