

Blog

Is My New Spouse Required to Contribute to My Child's Costly College Expenses?

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In Pennsylvania, a parents basic duty to pay child support endures until the child has reached the traditional age of majority, 18 years, or graduates high school, whichever occurs later. However, parents generally want their children to attend college and, when possible, also want to assist with paying for it. If divorcing parents want to verify that they will both contribute to college expenses, the best way to do it is to include a provision regarding college expenses in a Marital Settlement Agreement (MSA). With the rising cost of college tuition, this can become a touchy subject, and establishing such a contract between parents is something the Bucks County divorce attorneys at Williams Family Law encourage in order to avoid disputes down the road.



That said, the future is not always predictable, and a significant period of time may pass between the establishment of such an agreement and the child reaching college age. During that time, a parents life circumstances and level of financial prosperity may have changed. The courts recognize that a parents ability to pay can change over time, for better or worse. That is why it is very important to put language in a MSA regarding college expenses that specifically protects a parent from paying more than he or she may be able to pay at the time the children do attend college. The language must be flexible enough to provide room for a change in financial circumstances.

However, with that flexibility comes the problem of exactly how much each parent will contribute, which is where litigation comes in. In the case of *Goss v. Timblin*, the Superior Court of Pennsylvania held that a parents ability to pay college expenses must be viewed in the context of his or her financial resources. 622 A.2d 347, 348 (Pa.Super. 1993). In this particular case, the Court noted that the father had incurred significant personal expenses to provide himself with a lavish lifestyle. Based on that, it was also held that a party cannot intentionally incur debt to avoid his contractual obligation. The case was then remanded to the lower court to determine exactly how much each parent would contribute. There is no real way to provide flexibility and be definitive as to how much each parent will contribute. However, an experienced family law attorney will be able to draft provisions that provide the parents with as much protection as possible to avoid future litigation.

If the parties contractually agree to pay college expenses, they are on the hook for a portion, no matter what . . . well, almost. In *Fina v. Fina*, as part of their settlement agreement, the father agreed to pay 25 percent of the cost of college tuition and expenses, if he was consulted regarding the choice of school. 737 A.2d 760, 762 (1999). The father ended up not paying his share of the college expenses and a contempt petition was brought against him. The Superior Court of Pennsylvania held that the father had no obligation to pay his 25 percent because he was not consulted regarding the choice of school, which, under the agreement, was a requirement. Based on this case law, an important provision to include in any agreement regarding college expenses is a requirement that either both parents are consulted or the parent contributing is consulted. When a parent is not consulted regarding choice of college, there is the risk that the child will go to a college that the contributing parent cannot afford at all.

Like any contract, a MSA college clause prepared by an experienced family law attorney is likely to have conditions that will nullify the parents obligation to pay if not met. A parent may be required to contribute, for example, only if he or she is consulted when a college is chosen, or only after all possible scholarships, grants, and loans have been pursued.

If you have questions about negotiating agreements regarding paying for college after a divorce, contact the experienced Bucks County divorce attorneys at Williams Family Law in Doylestown at 215-340-2207.