

College Contribution after Divorce in New Jersey

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Many parents are confused in the midst of their divorce when the topic of “college contribution” comes into the conversation.

“My parents didn’t pay for my college expenses and I didn’t think I would have to pay for his (or hers)!”

In all likelihood, most people did not previously think of the possibility of being divorced, so it is not surprising that most people do not know how the courts deal with whether parents should contribute to their children’s college education costs and how they will be able to do so. New Jersey courts generally view college education as a necessity, and the trend in New Jersey is to require parents to pay the college costs for their children in line with their ability to do so.

This is surprising to many parents, especially if they paid their own way through college or other higher education themselves. I hear from many parents that they want their children to pay their way through for character building, or simply because the parent does not believe they can contribute and maintain their lifestyle. However, most divorced parents in New Jersey will be required to contribute to the costs of their children’s higher education regardless of their personal views.

If you and your spouse have agreed that you would both pay for your child’s college costs, or at least share the same opinion as to what extent and how the college costs would be paid, everyone is able to move forward happily with their lives; comfortable with their agreement. (In most instances, as some of you may have read in the news, the notion of a child suing their parents for college contribution is a

newer and different subject, which is not addressed in this particular blog).

Conflict exists, however, when spouses disagree as to the extent college costs will be covered and how they will be paid.

In evaluating whether parents should contribute toward the costs of their children's college (or other higher educational pursuits), the courts will consider the following factors:

1. Whether the parent would have contributed toward the costs of the requested higher education if they still lived together;
2. The educational values and goals of the parents and the reasonableness of the expectation that the child attain higher education;
3. The amount sought by the child for the cost of higher education ;
4. The ability of the parent to pay that cost;
5. The relationship of the requested contribution to the kind of school or course of study sought by the child;
6. The financial resources of both parents;
7. The commitment to and educational aptitude of the child for the requested education;
8. The financial resources of the child, including assets owned individually or held in custodianship or trust (i.e., 529 Plans);
9. The ability of the child to earn income during the school year or on vacation to reduce his/her costs;
10. The availability of financial aid in the form of college grants and loans;
11. The child's relationship to the paying parent, including mutual affection and shared goals as well as responsiveness to parental advice and guidance, and
12. The relationship of the education requested to any prior training and to the overall long-range goals of the child.

If the parents are unable to come to their own agreement, the courts may have to schedule a "plenary hearing" (an evidentiary trial) on the issue, including taking testimony and introducing evidence regarding the above factors. Parents would need to exchange financial information and "discovery" (information and documentation relative to the factors above), and a judge would review the evidence, listen to the testimony of the parents (and on some occasions, the child) and then determine each party's (parent's) contribution to their child's costs.

With the ever rising costs of higher education, college contribution is an enormous issue in divorces today, whether the issue is brought to us when the parents are being divorced, or years later when the child is closer to college-aged. It is

therefore extremely important to handle these issues with care and to seek legal counsel to guide you through the process.

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