

## For Divorced Couples, Paying for College May Not Be an Academic Issue

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Figuring out college finances can be thorny under the best of circumstances. The costs are complex and vary from college to college and student to student. For divorced couples, there are added layers of complication: Who pays, and how much?

Parents who divorce when the kids are closer to college age may already have a plan that both are happy with. For parents who divorce when children are younger, college is so far away that they may not have even started planning. These parents, who have gotten used to navigating day-to-day life by the terms of their divorce decree and custody agreement, may suddenly find themselves dropped into a complex financial situation with no guidance.

One thing that makes including college finances in a divorce particularly problematic is that children are usually legal adults by the time college starts. A court cannot order a parent to pay for college or order them to fund an account to pay for anything post-majority. Essentially, all that is required for college to be excluded from a divorce decree is for one of the parties to simply say, “No.”

Nevertheless, many clients seek a legal solution to the college problem. Unless there is money from a family trust or other guaranteed source, it can be daunting for clients to include college financing in a divorce settlement. There are simply too many variables to guarantee the money will be available at the time without causing undue financial strain. That said, there are several legal paths to collaboration available.



### *Writing College Funding into the Divorce Decree*

If both parties agree to it as part of a divorce settlement, a college financing plan becomes an enforceable agreement. If one party agrees to pay for college and allows it to be put into the divorce decree, then the other party can take them to court. This tactic turns what many consider to be a parent’s moral obligation to a child into a legal obligation to an ex-spouse.

If the children are older teens, and both parties can realistically project their finances for the next four or five years, that might work out fine. But for parents of very young children, they are gambling on the unknown. College costs might increase more than expected, the child might turn out to be a terrible student, or the parent might have an unforeseen financial setback. Once that agreement is signed, the parent is liable for those costs regardless of changes in their financial circumstances, unless modification language is included.

If the couple decides to include paying for college in their divorce decree, make sure some common-sense limitations are included. In particular, be specific about:

- **Costs:** Do some research and project the cost of one year at an in-state university: food, lodging, tuition and associated fees. Cap your annual contribution at this amount. This doesn’t mean you can’t pay more for a private school if you choose, but it does mean you are not obligated to your former spouse to do so. Spell it out clearly.

- **Schools/Degrees:** Specify what types of school you are willing to pay for and exclude any you are not. For example, you might be willing to underwrite a degree from an accredited university or a trade school, but not a stint at Clown College.
- **Time:** An undergraduate degree is usually four or five years. Not capping your contribution at the end of a reasonable length of time might leave you funding ten years or more of a protracted degree at an expensive private school.
- **Performance:** Include some reasonable expectations for academic expectations for the funding to continue. Paying for a failing student to move from school to school is in no one's best interests.
- **Other Monies:** Sometimes money comes from outside sources: scholarships, grants and gifts. Spell out in the agreement which party will benefit in equal amounts regardless of the source. For instance, a \$10,000 scholarship reduces each parent's obligation by \$5,000, while a gift from a member of one parent's family could go toward that parent's obligation.

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