

The Legal Intelligencer

THE OLDEST LAW JOURNAL IN THE UNITED STATES 1843-2015

PHILADELPHIA, MAY 26, 2015

An **ALM** Publication

FAMILY LAW

Who Is Responsible for Paying the Costs of College?

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Clients often ask about their responsibility for college education. In Pennsylvania, neither parent has a legal obligation to pay for their child's college education. But in some cases it may be worthwhile for a parent to agree to pay a portion of the cost.

Just because payment of college costs is not required in Pennsylvania does not mean you should never advise your client to enter into an agreement for payment of college costs. If parents are getting divorced and college is imminent (a child is in high school), an attorney should definitely have the college cost discussion with his or her client.

By agreeing to pay a certain cost, you could set a limit for the total cost your client would have to pay, agree to pay for only certain items, such as tuition, have a selection of the school choice, ask the child to contribute toward books or other items, and require the financially dependent spouse to also pay some of the costs or help the student apply for financial aid.

Carefully choosing the cases to advise your client about the payment of college costs is advocating for your client. If your client is the financially independent spouse, it makes sense to advise your client to agree to pay some of the costs. In this type of scenario, the financially dependent



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spouse, who may have no funds put aside for college, may just assume the other parent will pay the entire bill.

But if you represent the financially independent spouse, your client's exposure for college costs could be enormous. In this type of situation, you can counsel your client to agree to pay certain expenses, have the child attend a state school in Pennsylvania and require the other parent or child to make applications for scholarships or financial aid. Alternatively, with no agreement, you could potentially pay the whole bill.

A parent who agrees to contribute toward the costs may also get the financially dependent spouse to agree to mark some of the equitable distribution assets toward college expenses. In return, perhaps the financially independent spouse would agree to pay a longer period of alimony in exchange for the financially dependent spouse accepting less in equitable distribution. This arrangement would not only help curb the costs of college, but also would provide a tax deduction for alimony to

the financially independent spouse.

An agreement to pay for college isn't recommended in all cases.

If the child is still very young when the parents are getting divorced, this may be an instance where recommending payment of college costs is not good advice. Signing an agreement to pay college costs when a child is only 5 can have detrimental consequences. Your client may be estranged from the child by the time the child is in high school. When the child selects the school, a parent who has had no contact with the child could be presented a bill for college costs that were agreed to nearly 12 years before.

A college degree will assist the child in becoming more financially independent. Most parents want their child to have opportunities. But providing opportunities does not have to be at the expense of one parent. Instead, think through the choices and review with your client whether a particular case warrants a recommendation of payment of college expenses. A thoughtful analysis could save your client money in the long run. •

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