

Paying for Children's College Costs After a Divorce

In a divorce, it is not uncommon for child-related issues to be disputed. Issues such as child custody, parenting time, and child support, can become very heated and contentious issues. However, there are other important issues related to children that can sometimes be overlooked or forgotten in a divorce. One example of this is paying for a child's college costs.

In Massachusetts, parents who are still married, and have no divorce proceedings pending, are under no legal obligation to pay for a child's college costs. However, once parents separate and divorce, the courts take an interest in the children, using the legal standard of the "best interests of the child." It is not uncommon for it to be in a child's best interests to attend college. Thus, the question arises as to who will pay for the child's college costs.

When the courts make a determination as to payment of college costs, they review multiple factors, such as each parent's income and earning capacity, each parent's ability to pay, the child's aptitudes, and what financial aid (if any) has been awarded to the child. Once reviewing these factors, the court make a determination as to how much each parent must pay.

Parents can avoid having an order issued as to college costs if they reach an agreement as to payment of college costs, whether at the time of divorce through a Separation Agreement, or through a modification action. If parents are able to agree as to their respective contributions, then they do not have to abide by an order issued by the court, that neither parent is likely to be entirely happy with.

An important thing to note, however, is that parents are not required to pay any educational debt of the child after the child graduates. The payment of college costs is limited to the time that a child is in college. Once the child graduates, neither parent is financially responsible for payment of any educational debt, as far as the Probate and Family Court is concerned.

Additionally, under the Child Support Guidelines that went into effect in August 2013, the Probate and Family Court is permitted to consider each parent's contribution towards college costs. The Child Support Guidelines permit a deviation of the child support obligation based upon a parent's contribution of college costs. Thus, once a child is college age, it is wise to also revisit child support to see if a modification is proper.