



ALL IN THE FAMILY

Legal blog on all aspects of Family Law and Divorce in Massachusetts and Rhode Island

Tassel or Hassle: College Costs and Divorce

BY ROBIN M. LYNCH NARDONE • OCTOBER 31, 2024

If you are the parent of a high school senior, you're keenly aware that it is not just leaf peeping season, but college application season. Early action and early decision applications for most colleges are due in October or November. You may be travelling across the country to look at colleges (or dragging your child to at least *look* at colleges before submitting applications) and being asked to review essays.

While not true for all states, in Massachusetts, the Probate & Family Court has the authority to order divorced parents to contribute to the costs for children to obtain an undergraduate degree. The obligation to contribute to college costs is in the nature of child support, which is an obligation until emancipation of a child. In Massachusetts, emancipation can extend to age 23 if a child is enrolled in an undergraduate course of study and dependent upon parents for support. Thus, for divorced parents, it is important to consult your divorce agreement or judgment to determine your rights and obligations relative to a child's college applications and payment of costs to be certain you do not run afoul of its terms.

If you are in the midst of a divorce where there are minor children, time and consideration needs to be given to how to handle the possibility of future college costs, including:

- What happens to monies already held in college savings?
- Will either or both parties have an obligation to continue to contribute to college savings accounts after the divorce?
- When a child reaches senior year and it's time to make applications, who pays application costs?
- Will there be any limits on where the child can apply? Is the decision on where to apply in the hands of the child or the parents?
- Once the child has been accepted, how is the decision made on which college to attend? Is the decision in the hands of the child or the parents?
- How will college savings be applied? Will the savings be applied first in total before either parent has an obligation to

make any contribution? Will college savings instead be divided over the four years of undergraduate study? Will the student have an obligation to contribute to costs?

- FAFSA – Federal student financial aid requires information from a “contributor.” The parent who provides most of the student’s support is the contributor and needs to sign, consent to, and provide financial information for the student loan application. Requiring cooperation of both parties to engage in the process of filling out the FAFSA is helpful to include in a separation agreement.
- How much will each parent contribute to college costs not covered by savings, loans, scholarships and grants? At the time of divorce, parties can lock in a dollar contribution, a percentage contribution, or even agree to make this determination when a child gets closer to college instead of at the time of divorce.
- The child is not a party to a separation agreement, which is a contract between the parents, but parents can agree to continue to fund college only if the child achieves a particular GPA.
- What happens to any funds remaining in the college savings account if not exhausted on college costs?
- What is included in college costs? Consider such costs as SAT preparation courses, SAT, college visits, application fees, tuition, room and board, off campus housing/food, books, student fees, athletic fees, electronics (computer/printer), dorm set up items, travel to/from campus, semester abroad, and any special costs relating to the child’s course of study.

Even if your child is not a senior in high school, the time will arrive sooner than you know it. Making decisions about college costs as part of your divorce can resolve some future disputes and ensure a smoother transition to college.