



WHAT IS COLLABORATIVE FAMILY LAW?

- The practice of family law using interest-based negotiation where lawyers are retained solely to help the parties achieve a mutually acceptable settlement.
- The lawyers and parties sign a contract agreeing not to go to court.
- The parties and lawyers work as a team.
- The clients are responsible for:
 - Deciding issues to resolve;
 - Exchanging important information;
 - Sharing interests, needs, objectives, and proposals with the other spouse;
 - Understanding interests, needs, objectives, and proposals of the other spouse;
 - Generating settlement proposals;
 - Creating mutually acceptable outcomes.
- The lawyers are responsible for:
 - Creating a safe negotiating environment;
 - Advocating interests;
 - Advocating for collaborative process;
 - Acting as a negotiation coach;
 - Acting as an information resource.
- Negotiations take place in a series of four-way settlement meetings to exchange information, express interests, goals and concerns, develop options for settlement, and negotiate mutually acceptable agreements.
- During settlement negotiations, all parties treat each other with respect and they negotiate in good faith.

COLLABORATIVE FAMILY LAW PRINCIPLES

- **Team Approach-** the lawyers and the clients work together as a team of equals, all pulling together on the same side of the problem.
- **Court is not an option-** Neither lawyer can commence a legal proceeding or threaten to do so during the Collaborative Family Law (CFL) process. This

provides an incentive for the lawyers and their clients to keep working together to find acceptable solutions and unleashes creative, *out-of-the-box* problem solving. The team may include other collaborative professionals including mental health professionals working as coaches and child specialists, financial planners, mediators, and neutral experts when needed.

- **Recognition of the interdependence of the parties** - There is a shared belief that the best possible outcome can only be achieved if the needs and interests of both parties are met. Clients are not expected to agree with each other, but to accept that the other, along with his or her perspective and belief system, is a necessary partner in creating a solution.
- **Focus on interests** - Collaborative negotiations are interest-based rather than adversarial. The parties exchange information and consider all available options before choosing the best solution to meet their identical interests.
- **Law is not the only standard** - Although CFL lawyers inform their clients about their legal rights and obligations, they encourage the parties not to limit themselves to outcomes dictated by the law.
- **Process and outcome are of equal importance** - In collaborative negotiations, the parties seek to understand and to be understood. The lawyers, in consultation with the parties, bear responsibility for creating a respectful, effective negotiation process. The parties own the outcome.

ROLES OF LAWYERS

- Advise clients of the law that applies to their circumstances.
- Guide clients through a process of effective conflict resolution using interest-based negotiation.
- Establish a safe environment for negotiation.
- Model for clients a commitment to honesty, mutual respect, and dignified behaviour.
- Model the ability to hear and understand (active listening) what is important to the other side so that the interests of both are promoted.
- Help clients communicate effectively.
- Use clear, neutral language in speaking and writing.
- Coordinate with other lawyer regarding ground rules, agenda development, and creation of a positive process.
- Get to know own client and establish rapport.
- Get to know the other party and establish rapport.
- Help identify facts, issues, interests of both sides.
- Cooperate to provide all important information and full disclosure.
- Help develop the widest range of possible choices.

- Represent own client's interest and choices while validating the other party's interests and choices.
- Assist parties to analyze consequences of possible choices and competing values.
- Respect choices made by the parties, even if they are choices different than the law may provide.
- Bring stability and reason to emotionally charged situations.
- Pre-empt crises.
- Be committed to finding effective ways to assist parties to reach agreement and overcome impasses (i.e. mediation, neutral experts, neutral lawyers to provide a third opinion).
- Remain committed to settlement and refrain from using adversarial techniques, tactics, or threats.

ROLE OF CLIENTS

- Commit to the process.
- Adhere to the principles of the collaborative approach.
- Respect the process needs of others.
- Honor the agreed upon process rules.
- Help develop information and provide disclosure of all important information.
- Undertake tasks to keep costs down.
- Express needs clearly without blaming or judging.
- Respect the perspectives, interests, and values of the other party.
- Explore differences in perspectives, interests, and desired outcomes rather than react to them.
- Let go of positions and focus on interests.
- Generate as many options for settlement as possible.
- Look for solutions that meet the interests of both parties.
- Let go of past frustrations and focus on the future.
- Take responsibility for the outcome.

GUIDELINES FOR EFFECTIVE PARTICIPATION

- Identify your perspectives, interests, and beliefs.
- Listen to learn about the other party's perspectives, interests, and beliefs.
- Avoid taking positions.
- Respect the values and perspectives of the other person whether or not you agree.
- Don't try to change the other person's values and perspectives.
- Recognize your own process needs.
- Respect the process needs of the other person.
- Use "I" statements to speak for yourself.
- Don't use "you" statements to accuse or blame the other person.
- Don't argue.

- Don't be critical, judgmental, or sarcastic.
- Allow the other person to speak without interruption.
- Try to control anger and emotions.
- Take a break when you need it.
- Commit to the fullest development of choices and options before making decisions.
- Look for solutions that meet the interests of you and your spouse.
- Measure the value of everything you do by asking whether it is effective in advancing you to your desired objectives.
- Take responsibility for your feelings, interests, and choices.

ROLE OF OTHER COLLABORATIVE PROFESSIONALS

Role of Mental Health Professionals as COACHES:

- Gain an understanding of the client, the spousal system, and the family system.
- Teach skills to reduce and manage stress associated with major family changes.
- Prioritize client concerns.
- Enhance communication skills.
- Reduce misunderstandings.
- Help develop conflict resolution skills.
- Assist in a focus on working toward resolution.
- Develop co-parenting skills.
- Refer clients for mental health therapy or counseling as needed.
- Give valuable input to the other collaborative professionals on the team to enhance settlement.

Role of Mental Health Professionals as CHILD SPECIALIST:

- Provides neutral assessment of and advocacy for the needs of the children.
- Provides clients (the parents) with recommendations and information on how to help their children through the divorce process.
- Assist clients in developing a parenting plan that reflects the needs of the children and of each parent.
- Refer clients and/or children for mental health therapy or counseling as needed.
- Gives valuable input to the other collaborative professionals on the team to enhance child-centered settlements.

Role of FINANCIAL PLANNERS:

- Provide clients with any necessary financial planning regarding the division of assets, liabilities, and support.
- Provide analysis of the nature and composition of specific marital assets (e.g., retirement, capital gain considerations, tax implications of financial issues, etc.)

- Take responsibility for neutrally gathering all relevant financial information.
- Assist development for and understanding of any valuation processes.
- Assist with estate planning issues.
- Assist clients in developing their budgets.
- Present clients with various scenarios and projections based on different assumptions.
- Work closely with clients and their lawyers to agree on a base set of assumptions and projections to develop options for settlement.
- Assess how financial issues impact on a parenting plan and vice versa.

Role of MEDIATOR:

- Creates safe and supportive environment.
- Manages professional relationships in process.
- Develops process structure.
- Provides process education, communication skill-building, and self-management skill enhancement.
- Insures individual process needs met.
- Assist parties in avoiding impasse.