



## **UNIVERSAL LANGUAGE TO EXPLAIN COLLABORATIVE TEAM PRACTICE**

Separation or divorce is, for many couples, one of the most difficult and defining events in life. It may involve intense feelings of grief, pain, anger, guilt, sadness, and more. These feelings are hard to avoid in a transition defined by loss, anger, conflict, betrayal, and financial struggle. This is true for children as well as adults.

Couples facing separation or divorce have many areas of concern. Some of the most frequent questions are:

- Am I going to be OK?
- How will our children be affected?
- When will there be an end to feelings of chaos and disorder surrounding my life?
- Will there be a way for everyone in our family to have our financial needs met?

These are very important questions. In the beginning the experience of separation or divorce may feel overwhelming. In reality the process is a series of manageable tasks. And, it must be remembered that separation or divorce is like any other transition in life - it can hold the promise of relief, growth, and healing.

The goal of Collaborative Team Practice is to help couples arrive at an outcome that is a good foundation for the future. This is accomplished by having expert help available to assist couples in each aspect of the process.

Divorce is usually thought of as a legal process: couples hire lawyers, maybe go to court, and come out with some paperwork that officially ends the marriage in the eyes of the law (even though couples with children know the parenting relationship will continue). Collaborative Team Professionals understand that separation or divorce is much more than just a legal process. It is an emotional, spiritual, and financial journey that includes a legal event which is only one step along the way. Just as marriage is much more than a “piece of paper,” the process of divorce is far more than simply “signing the final agreement.”

Collaborative Team Practice helps families identify and manage all aspects of the divorce process by:

- Dealing with emotions that may interfere with making good decisions.

- Developing effective communication skills.
- Addressing immediate financial needs as well as planning for the future.
- Generating the best options for raising children together in the future.
- Completing the necessary legal steps and paperwork.

## **Roles of Professionals in Collaborative Team Practice**

### **Attorneys –**

- Attorneys provide support and guidance for their respective clients.
- Support the clients in resolving areas of dispute.
- Cooperate with other Team members to guide the clients through the process.
- Work with both clients to create legal documents necessary to complete the process.

### **Financial Specialists –**

- Function most often as neutrals.
- Educate couples about financial concepts and guide them in projecting monthly expenses, dividing assets and debt, and allocating income to meet the family's needs while minimizing taxes.
- Often meet with the couple in 3-way meetings without attorneys present; lawyers join the sessions with Financial Specialists to help resolve areas of conflict or when final decisions are being made.
- Are licensed in their own field.

### **Child Specialists –**

- Function as neutrals.
- Meet with parents to obtain developmental information, identify family strengths and set goals for the children's needs in the process.
- Meet with the children to assess their hopes and needs for the future.
- May work with the coaches to strengthen the co-parenting relationship.
- Give feedback to the parents in 3-way meetings, or in meetings with other collaborative professionals present.
- Help the parents create a written Parenting Plan.
- Are licensed as mental health professionals in their own field.

### **Coaches in One-Coach Model -**

- Function as neutrals and may participate in joint meetings with other collaborative professionals and clients.
- May meet with each partner separately prior to start of the Collaborative Process.
- Assist in resolving conflicts that impede the process.

- May be used by the parents to help draft a written Parenting Plan or Communication Plan as part of the legal process.
- Are licensed as mental health professionals in their own field.

### **Coaches in Two-Coach Model –**

- Coaches provide support and guidance--not therapy--to their respective clients.
- Meet separately with their respective clients to identify needs, strengths, and areas of concern.
- Assist clients in developing effective communication and co-parenting skills in the best interests of the children.
- Help clients reduce anxiety as they make decisions about the future.
- May help the parents create a written Parenting Plan.
- Are licensed as mental health professionals in their own field.

### **All Team Professionals –**

- Share pertinent information with all Team members.
- May meet with other members of the Collaborative Team in conference calls or face to face Team meetings as needed.
- Team members may attend joint meetings with other Team members to help the case proceed smoothly.
- May include a Team Manager to assist with communication of Team members.

## **The Collaborative Process**

### **Informational Meeting**

In Collaborative Team Practice every family is unique and deserving of a process and solution uniquely tailored to their needs. Collaborative Team Practice keeps the focus on best outcomes for all family members during and after the process.

The informational meeting is an opportunity for the couple to learn about Collaborative Team Process from a Coach. A Coach can address some initial concerns, help the couple assess their needs, and help direct the couple to the Collaborative professionals who can provide the right support, using the family's financial resources as wisely as possible. Couples will not receive specific legal or financial advice at this meeting, but they will have the opportunity to talk about what is most important to them. The length of this meeting is typically 90 minutes.

#### *Tasks:*

- ✓ Explanation of how Collaborative Team Practice supports families facing separation or divorce.
- ✓ Explain Collaborative Process, including roles of professional team members

- ✓ Instruct couples on how to start the Collaborative Process, if appropriate.
- ✓ Begin discussion of where the “sticking points” might be.

*What Parties will need to bring:*

- ✓ Questions.
- ✓ Personal notes from review of this handout.
- ✓ Initial Questionnaire, if mailed ahead of time.

### **Tasks to complete in Collaborative Process**

There are 3 sets of tasks which a couple needs to complete in a legal separation or divorce. These are: the Parenting Plan, the Financial Plan, and the Relational Plan. After the decisions associated with each of these plans have been made, it is the responsibility of the attorneys to pull them together into legal form and make certain the couple’s agreements are enforceable and will receive the support of the court system. However, the attorneys need not be involved in each phase of decision making.

**Task 1: Parenting Plan** – Parents who reach a written Parenting Plan under Minnesota law (Minn. Stat. 518.1705) are permitted to refer to themselves as “parents” in the terms of a court decree, if the written Plan contains the following points:

- ✓ An on-duty/off-duty parenting schedule
- ✓ A plan to meet the children’s monthly needs and expenses, including housing needs, in both homes
- ✓ A plan for coverage of medical insurance and out-of-pocket medical expenses
- ✓ A plan for work or education-related child care if needed
- ✓ A plan for future dispute resolution outside of court

**It is important to note that every case of separation or divorce can expect some “sticking points” or bumps in the road where the skilled efforts of the Collaborative Team are available for special help. In looking over the parenting tasks listed above it is a good idea for a couple to think about potential “sticking points” when they meet with the Coach in the Informational Meeting. What tasks can be expected to be simple and free of disagreement? Where are the areas of disagreement likely to occur?**

**Task 2: Financial Plan** – Couples need to review their monthly income and needs, their assets, and their liabilities with respect to a Financial Plan. The Plan must include:

- ✓ A determination of gross and net income for both partners
- ✓ A budget of monthly needs for both partners
- ✓ If necessary to meet monthly needs, a determination of how to exchange income between the homes of the partners in a way that protects as much income as possible from taxation

- ✓ A distribution of assets and liabilities which is optimal for both partners

**These financial tasks are often the most difficult for couples to complete on their own. Nevertheless, it is helpful for a couple to also think about these issues prior to the first Informational Meeting with a Coach. If a couple has had difficulty in the past coming up with enough income to meet expenses, and is concerned that this will be a difficult issue in the future, the Team Professionals need to know that from the outset of the process.**

**Task 3: Relational Plan** – There may in the future be ongoing relational issues for a couple, even if they have no children left at home. It is important to ask questions such as:

- ✓ What are the ways that a couple might need to be in contact in the future?
- ✓ What method of communication should be used?
- ✓ Is there a history with extended family members that can continue to be honored and kept?
- ✓ Will there be extended family members who may try to make matters more difficult for the couple? How can these be addressed?
- ✓ What can be done to alleviate the stress of adult children surrounding a separation or divorce?

**Task 4: Legal Event** – In Minnesota it is not necessary to file any legal paperwork with the court at the beginning of a separation or divorce process. In fact, from the moment a case is formally filed there is a great deal of attorney work which is generated for the benefit of the court and not in direct service to the couple. This includes: Informational Statement forms; Case Management forms; attendance at Initial Case Conference hearings; Pre-Trial Statements of the case; attendance at Pre-Trial hearings, etc. This work is not needed if a couple pursues resolution of their differences in Collaborative Team Divorce.

Thus in Collaborative Team Practice attorneys and their clients need only to prepare two legal documents:

- ✓ A simple Joint Petition for separation or divorce (a 2-3 page document signed at the beginning of the process at the first Joint Meeting); and
- ✓ A Stipulated Judgment and Decree for the court to sign, incorporating the terms of the couple's agreements (a 25–35 page document signed at the last Joint Meeting)

It is the job of the attorneys, working together with the couple and the Team, to draft a Stipulated Judgment and Decree that incorporates all the substantive aspects of a couple's Financial Plan, Parenting Plan and Relational Plan. The Stipulated Judgment must be drafted to provide security for both partners, e.g., their agreements will be enforceable, and to ensure that the Judgment will be approved by the court. In some counties, it is necessary for couples to attend divorce education classes prior to entry of

Judgment. Hennepin County (Minneapolis) courts also require that children between the ages of 6 and 17 attend such classes. Even in Hennepin County, however, this requirement may be waived for families who use a Collaborative Team process and who work with a Child Specialist. The choice whether or not to waive the educational requirement for children rests with the individual judge assigned to the case.

After entry of Judgment, the attorneys will obtain certified copies of the entered Judgment from the court and draft real estate deeds for a couple to exchange if they will continue to own real estate. At that point, if tax qualified retirement savings accounts must be divided, appropriate Qualified Domestic Relations Orders are drafted to do so.

After completion of the legal event, families may want to stay in contact with Team Professionals to make certain the terms of the Financial Plan, Parenting Plan and Relational Plan are being smoothly implemented.

## **Starting the Collaborative Process**

Depending on where a couple anticipates the “sticking points” to be, they may choose to start the Collaborative Process with a Child Specialist, a Financial Specialist or a Coach before they retain legal counsel. Most members of Collaborative Team Practice in Minnesota have their mediation training and are equipped to help couples work on these issues, referring to legal counsel where appropriate. In addition, the couple may be hesitant to retain attorneys until they feel more at ease with the Collaborative Team process, and know that their needs will be the primary focus of the process.

**Sometimes couples are able to reach substantial agreement on their own, after meeting with a Financial Specialist or Child Specialist. In those cases, one partner may hire a Collaborative Team attorney to draft up proposed legal paperwork, and the other partner hires a Collaborative Team attorney to review the paperwork and help revise it to meet everyone’s needs. This is sometimes called a “kitchen table” solution, because the couple comes to agreement on their own, as if sitting down at their own kitchen table.**

### **First Joint Meeting (aka The Commencement Meeting)**

Most couples will need some help to resolve their differences and make it over “sticking points.” Those couples will retain attorneys early on in the Collaborative Team process. The first joint meeting will include both partners, their attorneys, and frequently a Coach. The first task of this meeting is to review and sign the Participation Agreement (sometimes called the Collaborative Contract), in which all parties agree to:

- Make full disclosure of all information relevant to decisions which need to be made.
- Use neutral experts
- Make their best effort to keep their children out of the dispute

- Keep the process confidential, which means not to use statements made in the process in any legal proceeding
- Limit the representation of the attorneys to settlement work done in the Collaborative process. This means the attorneys agree never to litigate against either partner in any family dispute in the future.

At the time of the First Joint Meeting, a couple will be asked to present their “Big Picture Goals,” which means to talk about what is most important to them in their lives and what goals they wish to achieve in the Collaborative Process. There will also be a discussion regarding any emergency issues that exist, and whether the couple needs a plan for making a physical separation.

Also at the First Joint Meeting, the couple with their attorneys will plan the rest of the process, including what additional Team Professionals should be used, homework assignments for exchange of information (such as obtaining home values, retirement statements, etc), and dates for future meetings and deadlines.

*What to bring to the First Joint Meeting:*

- ✓ Materials which the attorneys may recommend
- ✓ An open mind
- ✓ Big Picture Goals – a list of the concerns, needs and interests most important to each partner and to any children of the relationship
- ✓ Inventory of what is owned, owed and earned (similar to information collected at origination of a new mortgage) unless this information will be collected by the Neutral Financial member of the Collaborative Team
- ✓ Hard copies of mortgage statements, debt statements, insurance statements, retirement statements unless these documents will be collected by the Neutral Financial member of the Collaborative Team

**After the first Joint Meeting, members of the Team will schedule a telephone conference or other meeting to “debrief” each other on progress and concerns. It is very important for each partner to “debrief” with his or her own attorney or coach after the first meeting as well. This feedback will help the team structure future meetings, as necessary, to improve the quality and safety of the collaborative process for each partner.**

### **Following Steps – Follow Up Meetings with Professionals**

After the First Joint Meeting, couples will meet separately with their individual attorneys, and usually meet in 3-way meetings with a Child Specialist and Financial Specialist. The attorneys do not always need to attend the meetings with the Child Specialist or Financial Specialist if the couple feels comfortable meeting without them; in addition, it saves the couple the financial cost of additional attorneys’ fees. Couples will also meet separately with their Coach after the First Joint Meeting, and if each partner has chosen to work individually with a Coach they may do so one-on-one with their respective coaches.

Attorneys do not often attend meetings with Coaches but may do so on occasion when requested to do so.

*Tasks for meeting with Financial Specialist:*

- ✓ Budgeting Plan
- ✓ Cash Flow Plan (for meeting financial needs of both partners and the children)
- ✓ Asset and debt distribution plan
- ✓ Plan for meeting children's financial needs (on-line checking account; exchange of income, direct payment of expenses, etc.)
- ✓ Medical care coverage plan

*Tasks for meeting with Child Specialist:*

- ✓ On-duty and off-duty parenting schedule
- ✓ Identify children's emotional and physical needs
- ✓ Give children a chance to share their viewpoint
- ✓ Assess for emotional problems, and make referrals for additional support if needed
- ✓ Child care (work related) plan

*Tasks for meeting with Coach/es:*

- ✓ Identify problem areas in communication
- ✓ Identify emotional triggers which lead to breakdowns in communication

**Collaborative Team Practice is designed to make the most efficient use of the family's financial resources. It does this by providing couples the opportunity to work one on one with Financial Specialists or Child Specialists to reach areas of agreement with experts in each field. It is not necessary to have both attorneys participate in each aspect of the case, and in fact other Team Professionals may charge less per hour than the attorneys. However, the attorneys are available to participate in any aspect of the case, and the couple may need them to do so. It is assumed that cases which have more financial complexity, or more relational complexity, will need more support from attorneys.**

**Additional Joint Meetings**

One or more joint meetings may be needed depending on the complexity of the case to work out agreements which have the support of both partners. These meetings may include other Team Professionals who can provide information as needed.

## **Final Steps**

Prior to the final meeting, it is common for the attorneys to circulate draft versions of the final legal documentation to the couple and to the other Team Professionals for correction and comment. At the final joint meeting, both parties will sign the final legal agreement (the Stipulated Judgment) and the attorneys will submit the paperwork to the court by mail. **No court appearances are necessary.**

## **A Note on Reconciliation**

Couples sometimes use Collaborative Team Process to help correct financial or relational dysfunction before the marriage is irreparably harmed. In these cases, both marriage partners approach Collaborative Process with the express desire to renew the marriage. When this purpose is expressed by both marriage partners, the Team assists the family in much the same way as any other collaborative case. A plan is designed for the renewal of the marriage and the family life through an improved financial plan, parenting plan, and relational plan with appropriate referrals made for therapeutic intervention. Tasks are assigned and deadline dates are established as part of the reconciliation plan. However, it is not necessary to file any written agreements or documentation with the Court.