

How Do I Get My Ex To Help Pay For Our Daughter's College?

May 8, 2014 | by Jennifer Fortunato

My daughter is completing her senior year of high school and she was accepted to an out of state college. The first tuition payment is due in August. How do I get my former husband to pay his share?

M.J.

Dear M.J.:

Without knowing all of the facts of your case, such as whether or not there is an agreement or a Court Order that addresses you and your former husband's obligations to contribute towards college expenses and what the agreement or Court Order states, your question cannot be answered directly.

The State of New Jersey is in the minority of states that requires divorced parents to contribute to their children's college education. The basis for this obligation is the principle that children of divorce are entitled to a college education. However, a Court can require that a child contribute towards his or her education as well as obligating his or her parents.

If you have an agreement or a Court Order that requires your former husband to contribute towards college expenses, you should consult with a family law attorney and discuss whether or not you should file an enforcement application to compel your former husband to pay his share of your daughter's college expenses. If your agreement was made years ago, it may not specifically define your former husband's obligation. Instead, it may have non-specific language which states that "the parties agree to contribute towards their children's college expenses based on their abilities to pay at that time", or the agreement may state that this issue "abides the event." In these cases, where there is an

application to enforce an agreement to compel a former spouse to contribute towards his or her children's college expenses, the Court will probably require that the parties exchange discovery (i.e. financial information) to determine each other's ability to pay, and then set the matter down for a plenary hearing (i.e. a trial) to determine if the other spouse has an obligation to contribute towards college expenses and, if so, the amount of that obligation.

If you do not have an agreement or a Court Order discussing college contributions, again, you should consult with an attorney about whether or not you should file an application to compel your former husband to contribute towards these expenses. Then, the same procedure above will probably occur; namely, there will be a period of discovery and then a plenary hearing will be conducted.

Regardless of whether or not there is an agreement or a Court Order requiring a spouse to contribute towards his or her children's college expense, the following is information that is helpful to assist the Court in making a determination as to a former spouse's obligation to contribute towards their child's college expenses:

1. proof that the other spouse was consulted during the entire college selection process and that he or she had input in this process;
2. proof that the former spouse agreed to the school(s) that the child applied to and/or selected, if applicable;
3. proof of the costs of the college expenses;
4. proof that financial aid, scholarships and grants were sought and the amount awarded, if applicable;
5. proof that at one time your former spouse agreed to contribute towards your child's college expenses; and
6. proof of everyone's financial circumstances, including your child's.

As a result, you should consult with an attorney who handles family law matters to determine the best way to proceed.

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