

College Expenses

Podcast # 4 of 9

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Whether one or both parents may be obligated to contribute to the college expenses of their children is an issue which is separate and apart from whether or not a parent is required to continue to pay support for a child who is in college.

Whether or not a parent is responsible for any payment of college expenses and the amount of their contribution depends upon a variety of factors. The factors were first enumerated by the New Jersey Supreme Court over 25 years ago and have since been made a part of our statutory law.

Those factors include :

- (a) whether the parent, if not divorced and still living with the child, would have contributed toward the cost of the higher education;
- (b) the background value and goals of the parents;
- (c) the parents or child's reasonable expectation of higher education;
- (d) the amount of the contribution being sought by the child;
- (e) the ability of the parent to pay the educational expense;
- (f) the financial resources of both parents;
- (g) the commitment and aptitude of the child;
- (h) any financial resources of the child including any individually owned assets or trust accounts;
- (i) the ability of the child to earn income;
- (j) the availability of financial aid, loans or scholarships;
- (k) the relationship of the child to the paying parent;
- (l) the degree to which the child's educational goals is shared with the parent and the child's responsiveness to the parent's advice and guidance.

It may be that one parent has been the sole or primary wage earner, and therefore, should be the only parent who is obligated to contribute to the child's educational expenses. Or in appropriate circumstances involving dual wage earners or parents who each have significant assets that both parents may be required to contribute to the child's educational expenses.

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If a determination is made that both parents should contribute to the child's educational expenses, the question then becomes in what ratio or percentages. A common solution is to divide the parents' responsibilities in proportion to their respective income or assets. If, for example, the parents are earning equal amounts, they would share the expenses equally. If one parent is earning seventy five percent (75%) of the combined income, that parent is likely to pay seventy five percent (75%) of the college expenses and the other parent would pay the remaining twenty five percent (25%). If the expenses are being paid out of assets and the parents' asset values are equal, it is likely that the expenses would be shared equally.

If at all possible, it is much better to negotiate and resolve both the continuing amount of child support and the allocation of the expenses at the time of the divorce. It is, at best, difficult to resolve those issues when the child is applying to college. Attempting to coordinate the determination of who pays how much of the expenses with the child's application and acceptance process creates a number of complications which could be avoided by some advance planning and agreement between the parents.



Robert J. Durst II is Chair of the Divorce Group of Stark & Stark and is certified by the New Jersey Supreme Court as a Matrimonial Attorney and by the National Board of Trial Advocacy as a Civil Trial Attorney.

Mr. Durst is a frequent lecturer on Family Law topics, was a Co-Founder of the New Jersey Summer Family Law Institute and is currently the Co Director of the American Trial Lawyers annual Boardwalk Seminar on Family Law. His leading lectures include a nationally known presentation on the distribution of stock options, the use and distribution of life insurance, and an original series on evidence in divorce cases.