

# What is Collaborative Family Law?

## 1. What is Collaborative Family Law?

"Collaborative Family Law" (CFL) is a way to help families who are in the midst of separation and need professional legal assistance to settle the issues. A commitment is made in a CFL negotiation that:

- negotiations will be principled, dignified and respectful
- issues will be resolved without going to court or threatening court action
- both sides will exchange all important information
- the parties will be assisted in exploring as many options for settlement as possible, and
- the lawyers will help the parties to reach a settlement that best meets their goals and priorities

## 2. What types of family law issues can be resolved using the CFL process?

Most family law issues can benefit from the CFL process including issues concerning child custody and visitation; spousal and child support; property and the family home and changes to existing arrangements.

## 3. What is the Collaborative "Participation Agreement"?

The CFL "Participation Agreement" is a contract signed by the parties and their lawyers committing to work out a settlement without going to court. If it turns out that court is necessary because the dispute between the parties cannot be resolved in a CFL negotiation, both lawyers must resign from the case. Your CFL lawyer will assist in transferring your file to your new lawyer, but he or she (or any member of his/her firm) cannot represent you in court.

## 4. How does a CFL negotiation work?

CFL negotiations take place at meetings with both the parties and their lawyers present. The lawyers act as facilitators or coaches and role models for constructive communication. The lawyers will help keep the discussions between the parties focused on the problems that the parties are trying to work out and help to find creative solutions. In a CFL negotiation, you and your spouse are empowered to reach decisions that will work best for both of you. The lawyers will provide legal advice and generate options for resolution. They will also assist you to improve your listening, communication and negotiating skills.

In a CFL negotiation, both parties must make full, honest disclosure of finances and other important facts that are necessary to make informed decisions.

If there are issues concerning children, the parents and lawyers commit to finding solutions that meet the best interests of the children.

In a CFL negotiation, all of the participants commit to treat one another with politeness and respect. The lawyers work as a team with the parties to provide options and choices for settlement.

**5. What if my spouse does not make the disclosure he/she promises in the Participation Agreement?**

If one of the spouses refuses to make proper disclosure, his or her lawyer is required by the Participation Agreement to withdraw from the case. This provides very strong incentive to both spouses to honor their promises.

**6. My spouse and I do not communicate at all. How can we use this process if we can't talk to each other?**

It is fairly typical for separated spouses to have serious communication problems. The CFL lawyers will coach each client individually about new ways to communicate with his/her spouse. The lawyers will also be present during the negotiations to help through the rough spots and to defuse conflict and avoid destructive communication.

**7. What if we need help to decide certain issues?**

It may be necessary to hire outside experts (such as pension valuers, real estate appraisers; etc.) in order to value certain assets. Input about the children's needs may be sought from a therapist. Accountants may be asked for income tax advice. Before any outside assistance is obtained both parties must agree on the selection and payment arrangements for the outside professional. Any expert whose services are used will not be allowed to assist either person if the matter does go to court in the future, unless agreed by both parties.

**8. Can all lawyers be CFL lawyers?**

If a CFL negotiation is going to be successful, it is important that both lawyers have an understanding of and commitment to CFL principles. Most lawyers who practice CFL have taken specialized training. Many CFL lawyers are involved in local associations. CFL is a relatively new approach to dispute resolution and not all lawyers have experience with the concept or have received training. If you and your spouse are interested in CFL, ask your lawyer about CFL or contact one of the members of Sound Collaboration for a referral to a trained CFL lawyer.

**9. How does CFL differ from mediation?**

A mediator is a neutral person who assists the parties to work out a settlement. The mediator does not act for either party and does not provide legal advice. In typical family law mediation, the clients attend mediation without their lawyers. Lawyers for each of the parties provide independent legal advice regarding any proposed agreements. In a CFL negotiation, each of the parties has their own lawyer present. Each lawyer will ensure his/her client is provided with legal advice about the issues. The lawyers work as a team to guide the parties to the best settlement possible.

## **10. How does a CFL negotiation differ from the traditional family law negotiation process?**

In a CFL negotiation, the parties and their lawyers commit to resolving the dispute without going to court or threatening to go to court. In a traditional family law negotiation, court may be used as an ongoing threat or bargaining tool. In a CFL negotiation, the parties explore options for resolution which include legal and other options. In a traditional negotiation, typically only legal options are considered.

In a CFL negotiation, the lawyers work as a team with both parties to develop a settlement that that best meets the goals of both parties. In a traditional negotiation each lawyer advocates solutions that best meet their client's goals.

In a CFL negotiation, the clients negotiate directly with one another and take responsibility for resolving the issues themselves. In a traditional negotiation, it is the lawyers who maintain control of the process and the negotiation.

## **11. What if final settlement is not reached using the CFL process?**

There is no guarantee that the CFL process will resolve every issue, although with a commitment to the process, most CFL negotiations should be successful. If one or both of the parties decides that they do not want to continue with CFL, then both lawyers must resign from the case and no other members of the lawyer's law firm can represent the client. The lawyers will assist in transferring the file to the new lawyer but will have no further involvement in the case.

## **12. Can one of the parties withdraw from the CFL process at any time?**

The CFL process is voluntary and either party may withdraw at any time. There may also be circumstances when one of the lawyers must resign, for example, if it is discovered that a client is hiding important information during the process.

## **13. How much does a CFL negotiation cost?**

Each of the parties will be responsible for paying the fees of his or her own lawyer. In addition, (with your consent), it may be necessary to hire appraisers or valuers to value certain of the assets. These valuations will also have a cost. The expense of a CFL negotiation will vary depending on the complexity of the issues and the time needed to resolve them. Typically, the process will cost less than going to court. Each of the parties to the CFL negotiation will have to discuss fees with his or her individual lawyer.

## **14. What to Do After You Decide Collaborative Law is the Right Process for You?**

Once you have decided that a CFL negotiation may be the right process for you, you should discuss this option with your spouse. A CFL negotiation can only take place if both parties agree. If your spouse agrees to consider a CFL negotiation, speak to your respective lawyers about the process or contact one of the members of Sound Collaboration listed on the website.

### **15. Why should I choose Collaborative Family Law?**

By choosing CFL, you ensure that the arrangement reached between you and your spouse will be designed by you, with the guidance and legal advice of your CFL lawyer.

You will be able to achieve a settlement in as dignified, respectful, creative and cost effective manner as possible.

CFL provides an opportunity for you to maintain the integrity of your family even though you do not wish to remain spouses.

### **16. Where can I find a Collaborative Family Law attorney?**

You can find a list of attorneys who practice collaborative family law in the Puget Sound area at the Sound Collaboration website: [www.soundcollaboration.org](http://www.soundcollaboration.org) or call 360-753-3304 and a list will be mailed to you.