Planning for College Costs Helps Avoid Legal Battles

By Rebecca L. Palmer

During a divorce proceeding, much of the focus while negotiating child support is on the here and now; however, looking forward to your child's continuing education is equally important. College costs can be a heavy burden on a household and even more so when parents are divorced.

Supporting your child, regardless of age, is seen as a parental duty, but under Florida law, there is no legal obligation for a parent to pay for college tuition or support a child after the age of eighteen or high school graduation. The Constitution's Equal Protection Clause prohibits the courts from ordering a specific spouse to do so and can leave a family in a difficult situation as their child hits college age.

One common mistake that I have seen during my twenty-five plus years in family law is when a parent independently files to modify their child's support obligation once their child is of college-age. There could be benefits with a change, mainly if the child goes off to college and will not be living at home, but nothing is guaranteed, and your support obligation could increase with tuition fees, living expenses, and room and board. The assumption of a change in your favor could have huge financial implications on your lifestyle. That is why seeking council from a family law and child support legal professional is so important.

As I have mentioned on other occasions, a key to future planning, whether it is has to deal with assets or financial obligations for your child, is a Marital Settlement Agreement (MSA). Guided by a legal professional, the agreement allows separated parties to negotiate a settlement that goes beyond what a judge would rule on and can help you avoid any

surprises after high school graduation.
When defining the MSA, and in advance of college selection, spend time carefully analyzing future education costs for all the children involved. Suppose the payment for a college education falls to both parents based on the MSA. In that case, a reasonable metric can be used, in-state tuition, for example, to set up a guideline for allocating expenses during their college career or to a 529 fund or trust / escrow account.
The terms in an MSA should be clearly defined and include precisely what expenses will be covered and if there is a maximum amount threshold. The agreement should also clearly set forth the duration of time that payments should be made and outline any future obligations, including master's or doctorate degree tuition residencies or relocation.
Children are a lifetime investment proposition, and the more your plan for their future education, the more your parental stock will grow.

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